The Solicitors' Journal.

LONDON, JANUARY 11, 1862.

ELSEWHERE in our columns will be found an extract on the Assessment of Industrial Incomes, from Mr. Hubbard's draft report of the Select Committee of the House of Commons on the Income and Property Tax. Mr. Hubbard proposed a scheme which would have the effect of preventing the present undue pressure upon industrial incomes as distinguished from those which arise from realised property. He proposes that the former should be taxed to the extent of two-thirds only, while the latter should be taxed to the full amount. Mr. Hubbard, however, failed to induce the committee to adopt his project. But there is so much injustice in the existing law—so far as it relates to the point in question—there is no doubt that before long a strong agitation will spring up in favour of Mr. Hubbard's plan. Mr. Cookson, as President of the Incorporated Law Society, was invited to give evidence before the Committee, in order that it might not be ignorant of the views of the legal profession upon this subject. Last session numerous petitions had been presented to the House of Commons by various metropolitan and provincial law societies, all of them protesting against the unfairness of the existing system. Mr. Cookson being asked to inform the Committee of the nature of the "grievance" under which solicitors felt themselves to be labouring, said that there was "a strong sense of injustice in the produce of their hands and brains being rated to the income-tax at the same rate as incomes derived from land and capital or money in the funds." "The great bulk," said he, "of the members of my profession are men who are deriving very limited incomes; we have many opportunities of ascertaining that their incomes are very limited indeed. Those who are alone in business, who have not partners, are dependent upon the continuance of their health and strength, and if they are obliged to withdraw from work, in consequence of ill health, their incomes almost entirely fail. That is not the case with large firms to anything like the same extent."

Being pressed to mention what was the amount of concession which would be deemed satisfactory by the legal profession, Mr. Cookson stated that he considered a deduction of one-third would be deemed reasonable and fair; and we think that in this, as indeed generally in all the evidence which he gave before the committee, he will have the general concurrence of the profession. The approaching Session of Parliament ought not to be allowed to pass without a strong effort by the industrial, and especially by the professional, classes, to obtain the adjustment of the present system; and as solicitors are about the most overtaxed portion of the community, they have a peculiar interest in agitating the question. We trust, therefore, that the law societies both in town and country will renew their petitions to Parliament early in the ensuing session, and that Mr. Hubbard will receive from the country that support which he failed to obtain from a select committee of the House of Commons.

Mr. COMMISSIONER FANE is the Serjeant Storks of Basinghall-street. He has never been remarkable for judicial dignity, although he has always had a sufficiently exalted notion of the respect due to Commissioners in Bankruptcy. Last August, after most lawyers had commenced to indulge in the pleasantness of the long vacation, Mr. Commissioner Fane electrified the few that remained in town, and, indeed, the public generally, by an announcement from the bench of his intention on an early day to deliver an impeachment of Lord Palmerston and the Government for "the manner in which the Commissioners had been treated by the New Bankruptcy Act." The wiser counsels, however, of some *amicus curæ* prevailed, and Mr. Fane was saved from the exhibition which he proposed for himself. But ever since he has evidently nursed his wrath, and now once more

"He gives the bastinado with his tongue"

to the Bankruptcy Act itself, and to everybody who pesters his commissionership by the assumption that he knows anything about it. All that we can say is, that if he is as ignorant as he says he is about the law which he administers, the sooner he makes way for those who know more on the subject the better it will be for the public. The other day Mr. Gresham on behalf of a creditor applied to Commissioner Fane for an order withdrawing a renewal of protection, and intimated his intention in case of refusal to appeal to the Lords Justices, whereupon the Commissioner burst out in this fashion: —

> I really cannot help it. You must deal with the difficulty as well as you can. All I can say is, that the law is thrown into such a state of inextricable confusion that I do not know what I am about. As to your going to the Lords Justices, go by all means. I shall not only not be offended, but rather flattered. Go to them, and tell them, "Mr. Commissioner Fane says he will not take away the protection he has granted, and considers the Bankruptcy Law a mass of confusion." You will not hurt my feelings half so much by appealing as you do by asking me to read the long judgment you have handed to me as a precedent. I am not to be supposed to know all the quips and cranks of these Acts of Parliament. In the early part of my life I learned my business, and I could perform it; but they have made such changes now that I do not know what I am about, and I am tired of beginning to learn new law.

It is sufficiently evident that either Mr. Fane is above his work, or his work is above him; but whichever is the case there is no reason why a Bankruptcy Commissioner should treat the Legislature with such disrespect, or an advocate with such discourtesy, as Mr. Fane has done. Whenever a judge is "tired of beginning to learn new law" it is time for him to learn the virtue of *resignation*; for it is his duty to administer the law *as it is*, and this he cannot do without knowing *what it is*. The existing law of Bankruptcy is no doubt very obscure and confused upon many questions where it might easily be otherwise; and it is no wonder that those who have to administer it should sometimes lose their temper; but there are certain bounds which even a commissioner in bankruptcy should be careful about transgressing. No judge ought to speak with studied disrespect of the Legislature or of a superior Court whose duty it might be to review his decision. Mr. Fane, however, has been a defaulter in both these respects; and in another hardly less blameworthy. Instead of calmly considering the application, which was made to him in an unexceptionable manner, he not only refused to do so, but treated the gentleman who appeared before him, in a way which is wholly inexcusable.

THE Irish Superior Courts Inquiry Commission has commenced operations. It appears to be divided into two sections, one sitting in London and the other in Dublin. The former held its first meeting on the 21st of last month; the latter held its first meeting at Dublin on Monday last, at the house of the Lord Justice of Appeal, Merrion-square. The other members present were Chief Justice Monaghan, Mr. Brewster, Mr. Napier, the Attorney-General, the Solicitor-General, and Mr. Orpen. Dr. Hancock, the Irish Secretary of the Commissioners, was also present; but as the meeting was only for preliminary purposes, no indication has yet been given of what course the Commissioners are likely to pursue. As many of them reside in this country it is not unlikely that meetings will be held here as well as at Dublin; and we see that Mr. Vaughan Johnson —a member of the English Bar, and sometime Principal

Secretary to Lord Chancellor Campbell—has been appointed as an additional secretary to the Commissioners. The objects of the Commission are the reduction of costs to suitors, and the assimilation as far as possible of the administration of justice in England and Ireland. It is to be hoped that a similar effort will be made in reference to Scotland. The difference between the laws, the legal nomenclature, and the procedure of Scotland, and the two sister countries has existed quite long enough. The *Daily Telegraph* recently contained a very witty article upon this subject, from which we make the following extract :—

"We must reiterate our opinion, that the Scottish language of law is the most uncouth, dissonant, incomprehensible jumble of fustian phrases and drouthy verbiage ever heard of, save among a people, who, like the one mentioned by Rabelais, hear with their eyes and understand with their elbows. What do the Scotch mean when they have gotten a prisoner into the dock by making a wooden board of him, and calling him a "panel?" How can a "panel" plead? How are you to hang a "panel?" What is a procurator fiscal? Why should an attorney be called a "writer to the signet?" Where is the signet, and when does he write to it? Is a "writer to the signet" ever promoted to be a "writer to the swan?" And the preposterous titles assumed by the Scotch judges! Was there ever an absurder one than "Lord Monboddo?" Well may he have written about monkeys with such a name. And Lord Ivory. Is there a Lord Elephant or a Lord Cameleopard on the Scottish bench? It has been said that a surgical operation is necessary in order to get a joke into a Scotchman's head; but when we come to read, or to attempt to read, the decision of a Scotch judge, we feel that a circular saw, a pulley, or a sledge hammer are needed to extract the kernel from the legal nut, and that the best thing would be, after all, a moderate degree of hydraulic pressure. 'What signifies me hear, if me no understand?' very pertinently asks Mungo in the *Padlock*; and what use is there in publishing the text of an elaborate judgment pronounced by Lord Ardmillan in the Yelverton case, if from beginning to end it is to southern eyes and ears nothing but a hopeless farrago of inscrutable balderdash? We are told that his lordship has now disposed of all the appeals and objections 'taken in course of leading the proof adduced on the part of the defender, Major Yelverton.' We presume that 'defender' means defendant; but what is the 'course of leading the proof'? Is it putting a plea on the record, or filing an affidavit, or is it a demurrer, or a cognovit, or a writ of habeas corpus, or a pair of bagpipes? Further on we read that the Lord Ordinary—what is a Lord Ordinary?—having heard parties' "procurators on the appeals in Major Yelverton's proof, and made avizandum with the debate and precess—repels the objection taken by the pursuer of the declarator of marriage to the question put on page 13 G.; p. 15 G.; p. 16 E. G. B.; p. 17 B.' Is this the nine hundred and ninety-ninth proposition in the Scotch Euclid, or does it stand for anything short of raving madness? How does a judge look when he is 'avizandum?' Does he wear a kilt or a pair of trews, and is 'avizandumising' a painful or a pleasant operation? We have a hazy notion that 'avizandum' must be a new metal; or, perhaps, it has something to do with geology, the earth's crust, and the old red sandstone. The Lord Ordinary goes on alternately repelling and sustaining objections—acting, in short, now as a legal 'buffer,' and now as a 'turn-table'—through many weary lines; then he speaks of a 'Miss Yelverton.' We had heard of a Miss Longworth, and of a Mrs., but of no Miss Yelverton; but let that pass. We only wonder that Lord Ardmillan didn't call the lady the Sultana Scheherazade or the Queen of Sheba at once. We omit, too, any discussion as to a mysterious personage called Tippets, who is dragged into the midst of a labyrinth of numerals and initial letters. We learn at last that the appeals and objections that have been withdrawn are to be dismissed, and that the deliverance appealed from are to be affirmed. Good Lord deliver us from Scotch law! 'But,' says the judgment in conclusion, 'in all the instances in which by this interlocutor the objection has been repelled, and in which the evidence was taken on paper apart, appoints the sealed packets respectively to be opened, and the contents thereof added to the proof.' We quote this passage in its entirety, and leave it, in its beautiful and logical simplicity, to be admired by our readers. Only we may be permitted to ask if these 'sealed packets' are each accompanied by a 'straw.'"

We need scarcely say that we anticipate the receipt of numberless letters from correspondents learned in Scottish law, who will at once unfold the mysteries of this astonishing abracadabra of 'avizandum' and 'sealed packets.' It may likewise be reasonably assumed that any person of great intellectual capacity might, in a year or two, master the difficulties of Scottish legal phraseology, and put Lord Ardmillan's rigmarole into the English of the nineteenth century. But we defy any person of moderate acquirements or average familiarity with the proceedings in English courts of justice to make either head or tail of this philological riddle, this enigma of obsolete words, this rhapsody of crabbed crambo. What does it all mean? Is the Yelverton case coming to an end? Has it advanced a step? or is Lord Ardmillan to be standing in the attitude of 'avizandum' to perpetuity? When we object to the retention in the tribunals of a country indissolubly united to the British Crown of a vocabulary of exploded and grotesque locutions, we are aware that not so many years have passed since our legal procedure was quite as cumbrous, and our legal phraseology quite as barbarous and obscure. It seems but the other day that we were finally rid of John Doe and Richard Roe at Nisi Prius, and of John A'Nokes and John A'Styles in Chancery proceedings; when indictments were drawn in dog latin, and declarations in bastard Norman French; when the Central Criminal Court was said to be held "*Apud Justice Hall in le Old Bailey*," and when a culprit sentenced to public exposure was to be "*ponatur sur le pillory uno die in Cornhill propè the Royal Exchange, et habeat ejus one of his auribus coupez*; and when in an action for a debt of forty shilling, the unhappy defendant was charged in the declaration with having gone about with sticks and staves, or wandering up and down as a vagabond, having no settled place of abode, and taking from our suffering Lord the King the sum of one million sterling, wherefore the plaintiff claimed the forty shillings aforesaid. But we have cleared away all this rubbish which cumbered our procedure. Pleadings, affidavits, declarations, indictments, judgments, are now unambiguous in style and plain in diction. French and Latin are as far as possible banished from them, and they are adapted to the meanest comprehension. We see no reason why the Scottish law courts should not adopt the English language in their processes; but if they persist in employing a mediæval jargon, we are equally unable to discern a reason why counsel should not address the jury in the Gælic tongue."

AN opinion of Mr. Van Buren, an eminent lawyer of the State of New York upon the alleged right of confiscation in the event of a war with America has been recently published. The question was submitted to him some years ago, but as there were then the same materials for forming a judgment upon this question as there are now, Mr. Van Buren's opinion will, no doubt, be interesting to many of our readers. The question, however, is so well settled by treaty between England and the United States, that it is not open to discussion by either party upon principles of abstract law; and this is not only the opinion of Mr. Van Buren, but of every intelligent person who is acquainted with the clause in the treaties cited by him. The opinion is as follows :—

My opinion has been asked in regard to the effect of a war between Great Britain and the United States on the bonds, mortgages, notes, and other securities for debts due by citizens of the United States held by subjects of Great Britain residing abroad.

I understand the sovereign power of a country to possess the right to confiscate the debts and funds of the subjects or citizens of an enemy during war, and such an authority has been held to exist in the Congress of the United States. The cargo of the ship *Emulous* (1 Gal. 563). Same case in Supreme Court of the United States, under the title of *Brown* v. *The United States* (8 Branch, 110; 1 Kent's Com. 59—60). But such is not the effect of a mere declaration of war as was held in regard to the late declaration of war between Great Britain and the United States (see cases cited above), and, as such confiscations are denounced by all liberal writers as harsh and severe, and as tending to destroy the civilisation and humanity which commerce has done so much to promote, I have no idea that such a special act would be passed by Congress in case of such a disaster as a war between the two great commercial nations referred to. Vattel, lib. 3, cap. 5, sec. 77; Emerigon des Ass., tome 1, 567; Martens, bk. 8, chap. 2, sec. 5;

Wolff v. *Oxholm*, 6 Maule & Selw. 92; 1 Kent's Com. 64; *Ware* v. *Hylton et al.*, 3 Dallas, 255.

"The principles of justice and humanity inculcated in the foregoing authorities were incorporated into the 4th article of the provisional treaty of peace between Great Britain and the United States, made on the 30th of November, 1782, in the following words:—'It is agreed that creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money of all *bonâ fide* debts heretofore contracted.' This was held to nullify a law of Virginia, passed during the revolution, providing for the confiscation of enemies debts; *Ware* v. *Hylton, et al.*, 3 Dallas, 199. The same provision was contained in the definitive treaty of peace between Great Britain and the United States of the 3rd of September, 1783. But the fullest and most ample provision is made in the 10th article of the treaty between Great Britain and the United States of the 19th of November, 1794, commonly referred to as Jay's Treaty, and is in the following terms:—'Neither the debts due from individuals of the one nation to individuals of the other, nor shares nor moneys which they may have in the public funds, or in the public or private banks, shall ever, in any event of war or national differences, be sequestrated or confiscated; it being unjust and impolitic that debts and engagements, contracted and made by individuals having confidence in each other and in their respective Governments, should ever be destroyed or impaired by national authority on account of national differences and discontents.' It is not possible to imagine a case which would induce Congress or the British Parliament to violate engagements thus solemnly entered into, and on the faith of which large investments of capital have been made.

"The only inconvenience, as it seems to me, that holders of securities under the circumstances referred to would sustain, would be a suspension during war of their right to sue.—*Griswold* v. *Waddington*, 16 J. R. 469, &c.

"J. VAN BUREN.

"New York, July 9, 1855."

THE *Morning Star* of yesterday contains the curious statement, that Mr. Tidd Pratt "has *decided* that the Rev. H. S. Fletcher, the defaulting actuary and treasurer [of the Bilston Savings' Bank] cannot be criminally prosecuted for the part which he has taken in this matter." It is further said, "Mr. Pratt has also ruled, that" neither the managers nor trustees are liable. It is hardly necessary for us to say, that the writer of this paragraph is not very conversant with the English law, and that he has altogether misconceived the position and duties of Mr. Tidd Pratt, which are entirely ministerial, and do not include any judicial functions. Any opinion from him in relation to such a case as the Savings' Bank is no doubt entitled to great respect, and would probably be accepted by those who are interested, as a conclusive declaration of their rights, and as a valuable guide in reference to the course which they ought to pursue. But it is strange to find a contributor to one of the morning journals so entirely ignorant of legal procedure as to write for the information of the public such an announcement as that which we have quoted from the *Morning Star*.

ON the 7th instant Parliament was further prorogued until Thursday, the 6th of February, on which day it is to meet for the despatch of business.

THE Society for Promoting the Amendment of the Law will hold its next meeting on Monday, January 13th, at eight o'clock, when Dr. Waddilove will read a paper on the "Conflict of Maritime Belligerent Rights."

Mr. DAVID M. STEVENS, of the firm of Messrs. Stevens and Cobb, American solicitors, 48, Bedford-row, has been appointed a Commissioner for the States of Ohio, Connecticut, and Massachusetts, to administer oaths and take acknowledgements in any part of Great Britain and Ireland.

JURIES IN LUNACY.

During the past week two new points of interest have been raised in the Windham inquiry. The first arose upon the illness of one of the jurymen, who were altogether twenty-three in number. A surgeon having deposed that it would be dangerous to the life of a juror to attend any longer, it was proposed on behalf of the petitioners that the inquiry should proceed with twenty-two jurymen. Objections to this proposition were made on the grounds that the alleged lunatic was entitled to the verdict of all the jurors who were empanelled and sworn, and that there was no precedent for the suggested proceeding. The decision of the master was that the hearing of the case should go on, and that he should take the decision of the diminished jury. He admitted, however, that the case was a novel one, and that the ordinary practice in civil cases did not apply; but that he could have gone on with only twelve jurymen if he pleased. The Lunacy Regulation Act of 1853, empowers the Lord Chancellor to regulate the number of jurors to be sworn, "but so that every Inquisition upon the oath of a jury be found by the oaths of twelve men at the least." The Act, therefore, is explicit upon the point that whatever may be the number of the jury sworn, no man can be found lunatic by a jury consisting of fewer than twelve persons. But it seems to contemplate the existence of larger juries, and the possibility of a "finding" by some—it does not appear what—majority. It is possible, therefore, that in a case where there is a bare majority for a particular finding—even though the majority amounts to twelve—that such verdict would not be valid in law. The rule of English law requires the unanimity of juries in their verdicts both in civil and criminal cases. The same rule prevails in Ireland; but in Scotland, where the jury consists of fifteen, a bare majority is sufficient, in criminal trials. This is also the principle recognized in most, if not all continental systems of jurisprudence, although in France, and we believe other countries, where the accused is found guilty by a bare majority, it is the practice to grant a new trial, unless the Court is of opinion that it would be improper. In old times, even in this country, a verdict was sometimes taken from eleven out of the twelve jurymen; yet the rule of unanimity has been so long and firmly established, both in civil and criminal cases, that the wonder is how a contrary practice has grown up in Inquisitions of Lunacy. But assuming any difficulty upon this ground to be removed, other difficulties remain in the way of any satisfactory conclusion, in the absence of express enactment upon the subject. It is sufficiently evident that the result may be very likely to depend upon the proportion between the entire number of the jury, and a bare majority, or the minimum required by the statute, for an affirmative finding. It may, moreover, be said that the person who is the subject of the inquisition is, at all events, entitled to some verdict, and that he cannot be certain of any if it may happen that the jury should be composed of an even number, who may be equally divided in their opinions. Jeremy Bentham, who was strongly opposed to the rule of unanimity, says that every jury ought to consist of an odd number, so as to ensure a majority in favour of something. Where the original jury consists of twenty-four, there may be no verdict at all, even though twelve men upon their oaths should be in favour of a verdict of lunacy. But suppose that during the hearing one of the jurors is allowed to retire, and a verdict of twenty-three being taken, there should be a majority of one only for an affirmative verdict, ought it not to be rejected?—because it would be only fair to assume that the absent juror would have gone with the minority. We are not informed—perhaps some of our readers can say—how the practice of accepting the verdict of a majority in Lunacy Inquisitions has arisen. But whatever may be said upon this subject does not conclude, although it will probably throw much light upon, the question, raised by Mr. Windham's counsel, namely, whether the Court has power to proceed with the inquiry in the absence of some or even one of the jurors who were empannelled to try the case. The decision of Master Warren assumed that no harm could

be done to Mr. Windham by such a proceeding, inasmuch as the smaller the number of the jury the better were his chances — it being more likely that twelve men out of twenty-three would come to the conclusion that he was insane, than that twelve out of thirteen would do so. The only analogy drawn from English law bearing upon the topic is that which was suggested by Mr. M. Chambers. Although a grand jury consists of twenty-three jurors the finding of twelve has always been considered sufficient, not merely because it must be a majority, but even though it appeared that the whole number of the grand jury were not present at the finding. The question now raised, however, although it may find illustration from the analogy supplied by Mr. Chambers is certainly not governed by it, nor is the instance cited in truth altogether analogous. Should the verdict of the jury, therefore, be unfavourable to Mr. Windham it is not unlikely that this new *cause célèbre* will afford an opportunity for the display of a good deal of learning upon a point which has hitherto been strangely overlooked.

The other topic to which we have alluded relates to the publication by the press of *comments* which may influence the minds of the jury pending the inquiry. It is clear that there is a wide difference in this respect between a fair report of the evidence and observations upon its truth or falsehood, or otherwise upon its character or tendency. It is also a very different matter to discuss questions of law as they arise in any litigation. They are *not* within the province of the jury. But it is so manifestly unfair for public writers to deal with the facts of a case before the verdict of the jury has been delivered that the Press, for the most part, exercises a creditable reticence in this respect. It appears, however, that some journals have broken through this rule in their comments upon the Windham case; and Master Warren expressed his determination, if necessary—acting under the jurisdiction given by the Lunacy Regulation Act for this purpose—to prohibit the publication of the evidence should the practice be continued. We doubt whether this is the proper remedy for the evil complained of—which is the publication not of the evidence but of comments upon it of an unfair character, which are calculated to interfere with the administration of justice. The abstinence exhibited by our newspapers generally in their observations upon the Windham case is highly honurable to the English press. We cannot be surprised, however, that either from ignorance or some other cause there should be a few wrong-doers amongst journalists not specially conversant with law, since in a legal journal—the *Law Times* of last Saturday —there is an editorial article which argues that the finding of the jury must be negative, because, amongst other reasons, "in Mr. Windham's case there has not been a single weakness, folly, or wildness that is not witnessed daily among men whom nobody dreams of calling insane." There is much more of the same kind of improper comment in this article, so that considerable allowance ought to be made for the faults of those offenders who have some excuse for their ignorance or forgetfulness of the law.

ON THE LAW OF TRADE MARKS.

No. X.

(By EDWARD LLOYD, Esq., Barrister-at-law.)

OF REFUSING OR GRANTING AN INJUNCTION.

The well-established rule of equity that the protection of the Court will not be extended to persons whose case is not founded in truth, is first made use of as a ground of defence to a bill for an injunction to restrain the alleged violation of the right to use a trade mark in *Hogg* v. *Kirby*, 8 Ves. 215. The objection there taken was that the plaintiff, claiming the protection of the Court for the title-page of his magazine, which professed to be "by William Granger, Esq.," was in fact guilty of an imposition on the public, it being shown that the name of the alleged author was fictitious. The excuse made for this was that it was a custom of the trade; but Lord Eldon states in his judgment that he felt considerable difficulty on the question, and that this custom, though it might be very usual, appeared to him very much like a fraud on the public. His lordship, however, deciding the case upon other grounds, left this question as an ingredient in an action for damages.

But in the case of *Pidding* v. *Howe*, 8 Sim. 477, the same rule of equity was successfully adduced in support of a motion to dissolve an injunction obtained against the defendants. In this case the plaintiff in his labels and advertisements intimated that the tea sold by him as "Howqua's mixture" was in part made by Howqua in Canton, and consigned directly from him to the plaintiff, and that its peculiar excellence was owing to the admixture of one very valuable species of black tea grown only in the province of Kyiang Nan, and which could not be procured at any price in England. On the other hand it was proved that "Howqua's mixture," was neither made nor used by Howqua, that the tea which gave to that mixture its peculiar flavour was well-known and easily procurable in England, and that in fact the teas of which it was composed were bought in England, and that the packages in which it was sold, were made, not in China, but in England. This, in the opinion of the Vice-Chancellor amounted to such a degree of misrepresentation held out to the public by the plaintiff, as to the mode of procuring and making up his mixture, that a court of equity ought not to interfere to protect him, that although as between the plaintiff and the defendants, the course pursued by the latter had not been a proper one, yet as the former had chosen to mix up what might be true with that which was actually false in introducing his tea to the public, the Court could not, unless he first established his title at law, interfere on his behalf.

The decision in *Perry* v. *Truefitt*, 6 Beav. 66, rests on the same ground. There the bill was filed for an injunction on the part of Mr. Perry to restrain the defendant from making and selling "Medicated Mexican Balm," with his name prefixed to it, alleging that this was a violation of the plaintiff's right in the title and description of his own "Medicated Mexican Balm." Now, whatever might have been the rights of the parties to use the name of a particular composition, yet each selling this as his own, and the defendant in fact carefully guarding against the danger of conveying an impression to the mind of his customers that his article was identical with that of the plaintiff, yet, observes the Master of the Rolls in his judgment, "when we see the representations made by Mr. Perry, I think they are conclusive against this application." And after expressing his entire concurrence with the observations of the Vice-Chancellor in the case of *Pidding* v. *Howe*, his Honour proceeds to comment on those particulars of misrepresentation on the part of the plaintiff which were in his opinion sufficient to disentitle him to relief. That after having bought a secret invention by a Mr. Leathart he represented to his customers and to the public, that "his admirable composition was made from an original recipe of the learned Von Blumenback, and was recently presented to the proprietor by a very near relation of that illustrious physiologist;" and that further there was no evidence to show that the composition was, as its name professed it to be, formed of vegetable balsamic production from Mexico. But the same course will probably not be followed where, though the statements contained in the label may not be absolutely true, they yet express merely that sort of exaggeration which is usually to be found in puffing advertisements, *Holloway* v. *Holloway*, 13 Beav. 209.

So in *Flavel* v. *Harrison*, 10 Hare 467, one of the grounds for retaining the plaintiff's bill for an injunction to restrain the defendant from using the name of

"Flavel's Patent Kitchener," for an article of his manufacture, was that of misrepresentation. It appeared that neither the plaintiff nor his father from whom he claimed by descent the right to use the name, and who was the original inventor of the "Kitchener," had ever taken out a patent for the article, and that it never was in fact patented; and it was held that the advantage gained by this misrepresentation, increasing its value in the estimation of the public, protecting it against those tests which might be applied to an unpatented article, and *primâ facie* against attempts at imitation on the part of rival manufacturers, that all these causes were sufficient to justify the Court in declining to protect the use of a name which thus derived a material part of its value from a direct falsehood. It appears, however, from a case before Lord Eldon there alluded to, that where a patent had been taken out, and had never been repealed, although an action had been brought and decided against the original patentee, this was not a sufficient case of misdescription to deprive the plaintiff in equity of his remedy. Similarly in the case of *Edelsten* v. *Vick*, 11 Hare, 78, where the plaintiffs represented the original patentees of "Taylor's Solid Headed Pins," an article, the patent for the manufacture of which had expired, it was held that they had a right to be protected in the use of the labels by which their pins were distinguished; there having been a continuous use of the same style of labels, printed from the original blocks, which had been employed through the duration of the patent-right, and that it was this continuous use of the label which conferred that right. On the question of misdescription, the Vice-Chancellor Wood, while maintaining in its fullness the general rule of equity, drew the following distinctions between the case then before him and those which I have before cited. "If there had never been any patent granted for the manufacture of these pins, or if after the term of the patent had expired the plaintiffs had taken up the use of the term "patented" as descriptive of their manufacture, and had first circulated the labels in that form, I should probably have thought that the case came within this ground of objection. But here that was not so; the blocks for the labels had been made during the existence of the patent, when the representation was perfectly true. The plaintiffs became proprietors of the rights of the original patentees, and of the blocks, labels, and other property; and those labels, which, as the external demonstration of the article, had acquired a certain value, or had attracted a certain degree of confidence, they continued to use." The general rule, therefore, to be deduced from these cases is, that in order to entitle a trader to the protection of the Court in his use of a name or label by way of trade-mark, any representation contained in or expressed by such a mark must be strictly correct, but that there may be cases in which a representation which was originally accurate in every part (and no continuous use can be held to cure an original inaccuracy) has ceased to be so, and that in such cases the goods having become known by their original description, the continued use of that description will be protected.

The case of *Croft* v. *Day*, 7 Beav. 84, is another illustration of the same principle, that suit having been instituted by the executors of Mr. Day, the surviving partner of the firm of Day & Martin, blacking manufacturers, and the objection being taken by the defendants that there was a deception practised upon the public by representing the manufacture to be that of Day & Martin, while no person of those names was concerned therein. But here it is said that the decision is not founded upon any peculiar or exclusive right in the plaintiffs to use the names of Day and Martin (though the continued use of such a description was not objectionable), but upon the fact of the defendant using those names in conjunction with certain circumstances in a manner calculated to mislead the public and to enable him to obtain, at the expense of Day's estate, a benefit to which he was not, in fair and honest dealing, entitled.

Another ground of defence not uncommon, and which, to some extent, involves the main consideration whether there can be any exclusive property in a name, is illustrated by those cases where the parties against whom an injunction is sought, or some of them, bear the same name with the parties seeking that relief. Now this may happen in two ways. The name used may, though really that of the defendant or of a partner, have been used or obtained for use in such a manner as to afford a reasonable ground for suspecting that it had been used colourably only, and for the purpose of misleading the public and drawing away the plaintiff's trade, and in such cases the Court will, acting on its ordinary rule, restrain a fraudulent use of the name, even though that name of right belongs to the defendant as well as the plaintiff. On the other hand, if the name is already used *bonâ fide*, there is no such property in a mere name as to entitle the Court to interfere.

Under the first head will be found the case of *Croft* v. *Day* (*sup.*), where the defendant Day, the nephew of Charles Day, one of the original firm of Day & Martin, alleged that he had induced an intimate friend of the name of Martin, with whom he was about to enter into a formal partnership business, to join him in the manufacture of blacking, and that his use of the style and title of "Day & Martin" could not be interfered with. It was, however, held by the Court, that this use of the name of the original firm was one, amongst other circumstances, showing a fraudulent intention on the part of the defendant, that it was the duty of the Court to restrain him in the prosecution of that intention, and that though he had an undoubted right to use his own name or any other name in a fair and honest way, yet he must be prevented from so doing in such a way as to deceive and defraud the public, and obtain for himself at the plaintiffs' expense an undue and improper advantage. Accordingly the form of the injunction was to restrain him from selling or offering for sale "any blacking or composition described as or purporting to be blacking manufactured by Day & Martin in bottles or with labels so contrived as by colourable imitation or otherwise" to obtain for him that fraudulent advantage.

The same rule was followed in the case of *Rodgers* v. *Nowill*, 6 Hare 325, although there the Court considered that there was sufficient doubtfulness as to the facts of the case to induce it to send the question of title to the name for trial at law, and the verdict of the jury at that trial being in favour of the plaintiff the injunction prayed for was ultimately granted.

The next case—that of *Holloway* v. *Holloway*, 13 Beav. 209—perhaps goes as far as the Court has ever gone in such cases; for there the defendant was not only *primâ facie* entitled to use the name of Holloway, but he had in using it prefixed to it the initial of his Christian name, Henry, whereas the title by which the plaintiff's pills and ointments were known was simply as "Holloway's." But the evidence of fraudulent intention was, in the opinion of the Master of the Rolls, so clear, that the defendant could not be allowed to use even his own name with such additions to it as to induce the public to believe that he was selling the pills and ointment made by the plaintiff.

But where (as in the case of *Burgess* v. *Burgess*, 3 De G. M. & G. 896) there is no evidence before the Court of the existence of a fraudulent intention on the part of the defendant to take advantage of a similarity of name to injure the trade of another, there can be no restraint on the mere use of a name which is his own, on the ground that other parties had previously, however legitimately, used that name, and had gained considerable benefit from it. It was indeed argued that, even in the absence of any fraudulent intention, the Court would, following *Millington* v. *Fox*, 3 My. & Cr. 338, protect the exclusive use of a name; but, as was remarked by the Lord Justice, the right to manufacture and sell

sauces and pickles is free to all, as is also the right to every subject to use his own name, even though it be also his father's, and that was all that the defendant in this case had done. He, like his father before him, made and sold "Burgess's Essence of Anchovies." There was no evidence tending to show an intention of passing off his goods for his father's. It so happened that his father's goods had obtained a great reputation, but that could not confer on the father such a monopoly as to prevent any one else from making essence of anchovies, and selling it under his own name.

I have now reviewed nearly all the cases on the law relating to trade marks. I wish, however, to notice two or three further examples of modes of colourable imitation which have been brought before the notice of the courts. In *Purser* v. *Brain*, 9 L. J. Ch. 141, where the imitation of the plaintiff's advertising labels was complete with only the substitution throughout those of the defendant of the singular for the plural number, on the doubt as to the plaintiff's exclusive right, the injunction was refused, but a trial at law was directed. But the Court has acted in restraint of a practice not very uncommon—namely, that of inserting material words of difference in a label or advertisement, but in letters so small as not readily to catch the eye of a purchaser, as in *Day* v. *Binning*, C. P. Cooper Ch. Ca. 489, and in *Burgess* v. *Burgess* (*sup.*) and as an instance of a like nature the case before Vice-Chancellor Wood, T. T., 1861, of Kaye's Worsdell's Vegetable Pills, and *contrà*, on the ground of the failure of proof of a fraudulent intention, or indeed of a probability of the public being misled, *The London and Provincial Law Assurance Society* v. *London and Provincial Joint Stock Life Insurance Company*, 11 Jur. 938.

The Courts.

THE WINDHAM LUNACY COMMISSION.

Jan. 6th.—The inquiry was resumed in the Court of Exchequer this morning before Mr. Samuel Warren, Q.C., Master in Lunacy.

On the names of the jury being called, Colonel Anderson one of the jury, did not answer and it being stated that he was unable to attend and medical evidence being given to prove his serious illness the Master said he must be discharged.

Mr. *Chambers* being asked what course he proposed to take, said he thought the juryman ought to be discharged, and that the inquiry should proceed with twenty-two jurymen. He believed that there was no precedent, but he thought such a course would be perfectly legal.

Mr. *Karslake*, for Mr. Windham) objected to the case proceeding.

The MASTER said he could not see that there would be any inconvenience in the proceedings, inasmuch as there would be twenty-two jurymen, and the verdict of twelve alone was required. There must be a verdict of twelve.

Mr. *Karslake* said he considered that he was entitled to the benefit of the verdict of all the gentlemen who had been sworn on the jury in this case.

Mr. *Coleridge* (for Mrs. Windham) said he took the same view as Mr, Karslake, and should withhold his consent from the further progress of the case.

The MASTER said he had contemplated such a contingency as that which had arisen, and he had therefore caused to be summoned a large number of jurymen as the overplus of twelve, thinking that even if two or three were taken ill they might still obtain the verdict of twelve. He thought that in the case which had arisen he had the power of discharging the jury altogether, or of going on, having simply discharged one of them.

Mr. *Coleridge* said it might happen with twenty-two, that eleven were of one way of thinking and eleven another.

The MASTER said that in such a case he should send the jury back until they could agree to a verdict of twelve.

Mr. *Coleridge*.—But the juryman discharged might at the time he left have been in favour of Mr. Windham, and thus he might be damaged without any fault of his own.

The MASTER said this was evidently a new case, for the ordinary practice of civil cases did not apply. He could have gone on with twelve jurymen if he had pleased.

Mr. *Chambers* thought they might draw some inference from the grand jury system. By the ancient law of the country it was essential before a man could be found guilty of crime that he should have not only the finding of twelve petty jurymen empannelled to try his guilt in open court, but that he should have a previous finding by the grand inquest of the country, the grand jury, and twenty-three gentlemen were generally summoned, although it did not necessarily require that number to enable a grand jury to act. It was never considered a bad finding because there were not twenty-three jurymen present when the decision was come to. The only possible difficulty in this case was that the absent juryman might bring others round to his opinion.

After some further discussion the Master decided upon going on with the case, and discharged Colonel Anderson from further attendance upon the jury, it being understood that Mr. Karslake and Mr. Coleridge should have power to protest before the Lords Justices in the event of their considering it desirable to take such a course.

The matter then ended.

Mr. *Chambers*, addressing the Master, said: Before we begin to-day, I wish to make an observation. I know that I shall be laying myself open to censure. I care not. I deem it my duty, in consequence of statements that have been made to me, to suggest to the consideration of the Court whether it should not caution the public press against making any comments on the case whilst it is proceeding; also against making comments on the evidence that has been given on the one side or the other. I need hardly state, because it is so perfectly obvious to all sensible men, that nothing can be more dangerous to the impartial administration of justice and any proceeding of law whatsoever. In the first place, it may seriously injure those whom it is intended to serve, — I was about to say this—and I submit it to the attention of all those who have written the articles with reference to the proceedings in this case — I say it may have the effect of injuring the parties whom it is intended to serve, because there are those who are unwise and indiscreet enough to suppose—it would be wrong for me to imagine that any such thing can occur —that the press is open to influences of a very despicable character, and the consequence might be, if that be the supposition, that the parties intended to be served might, in point of fact, be seriously injured or utterly ruined. On the other hand, while a proceeding of this important description is going on, if one party in the press, or one set of newspapers, proceeds to take one particular view, in justice it may be said that another party or another set of writers might take a different view, and the result inevitably would be that, instead of the case being tried as it ought to be, impartially and justly by the evidence that is presented to the jury, and the determination, ultimately, when the case comes to a conclusion, according to the best of their ability, that a state of excitment would be got up in the public mind which would baffle and entirely destroy the character and the great objects of English justice. Therefore, sir, with a most perfect desire that everything should be done fairly and justly, I submit to your consideration whether it would not be fit that a caution should be made to those writers who may have inadvertently taken this course, with a view that we may have a free and pure exercise of that impartial justice which belongs to this country; the free liberty of the press being always a trust highly prized by those who have enjoyed its blessings and received its advantages. But, at the same time, it being the duty of every man that desires to support that great liberty which we all boast of—it being the duty of every man, especially when he is engaged as an advocate, to state publicly that which is brought to his knowledge with reference to the course taken, with a perfect conviction that, if a caution be given, such commentaries will in future be abstained from.

The MASTER.—All I can say is, I am very much concerned for the necessity that has arisen for this serious intimation to me, and which I have not the least doubt, from the character of counsel, is founded on knowledge justifying this application to me. By the 48th section of the Lunacy Regulation Act it is enacted, "that any person executing an inquiry with a jury, while so employed, shall have all the right, power, authority, and discretion as a judge of a court of record." I think it is in my power, under that section, to prohibit the publication of the evidence from day to day if I think it inconsistent with the course of justice to do otherwise. I do take this opportunity of

solemnly entreating the members of the public press for the future, as they love the pure administration of justice, to abstain from that which has now been imputed.

The subject then dropped.

COURT OF BANKRUPTCY.

(Before Mr. Commissioner HOLROYD).

Jan. 6.—*In re Charles Wray Lewis.*—This bankrupt was a Barrister of Gray's-inn, and of Castelnau Villas, Barnes. He now applied to pass his examination and for his order of discharge. The bankrupt had been arrested at the instance of a creditor.

Mr. *Oldrewe* supported; no creditors appeared to oppose.

The COMMISSIONER having examined the bankrupt's statement, said it appeared that there were debts to the extent of £800 due to between 80 and 100 small creditors. As far as he (the Commissioner) could collect, the bankrupt had no means of paying them.

The bankrupt said that up to the present time his debts had been discharged by friends.

The COMMISSIONER: It appears that you have made nothing by your profession, and that you have lived at the rate of £500 per year. I think the case ought to be adjourned, or that you ought to set something aside for the payment of your creditors.

The bankrupt said that he had come to the court contrary to the wishes of his friends.

The case was eventually adjourned for a month.

In re Henry Wells Young.—A petition for adjudication of Bankruptcy was presented against Henry Wells Young, of Broadwater-villa, Warwick-road, Paddington, and 14, Gray's-inn-square, attorney, who stands charged with forgery.

The COMMISSIONER refused to adjudicate on the ground that no act of bankruptcy had been proved, and that no trading had been shown.

MR. COMMISSIONER FANE ON THE NEW LAW.

A solicitor who had filed a petition under the so-called "Gentleman's Act," the 7 & 8 Vict. had received protection, in due course; the protection had expired, and the learned commissioner had renewed it.

Mr. *Gresham*, on behalf of a creditor, applied for an order withdrawing the renewal of protection, on two grounds, namely, that the court had no power to renew protection in such a case, but that if it had, it was necessary for the protection of the creditors that the insolvent should be deprived of his liberty, as he was receiving rents and applying them to his own use, instead of distributing them, as he should do, among his creditors.

The COMMISSIONER refused the application; and in the course of the discussion which ensued, upon Mr. Gresham urging his application, and stating he should be obliged to appeal to the Lords Justices, he made the following remarks:—I really cannot help it. You must deal with the difficulty as well as you can. All I can say is, that the law is thrown into such a state of inextricable confusion that I do not know what I am about. As to your going the to Lords Justices, go by all means. I shall not only not be offended, but rather flattered. Go to them, and tell them, "Mr. Commissioner Fane says he will not take away the protection he has granted, and considers the Bankruptcy Law a mass of confusion." You will not hurt my feelings half so much by appealing as you do by asking me to read the long judgment you handed to me as a precedent. I am not to be supposed to know all the quips and cranks of these Acts of parliament. In the early part of my life I learned my business, and I could perform it; but they have made such changes now that I do not know what I am about, and I am tired of beginning to learn new law.

(Before Mr. Commissioner EVANS.)

Jan. 7.—*Re Benton.*—In this case the bankrupt petitioned *in formâ pauperis*, and a question arose before the registrar as to the right of Mr. Aldridge, the solicitor appointed by the Lord Chancellor to conduct pauper cases, to appear for the purpose of investigating the proceedings. Mr. Holt, who appeared for the bankrupt, having objected to Mr. Aldridge appearing, and desiring that the matter should be referred to the Commissioner for his opinion, the parties then went before him, when

Mr. *Aldridge* applied for an adjournment, with a view to an investigation into the bankrupt's accounts.

Mr. *Holt*, for the bankrupt, admitted that there must be an adjournment, with a view to an examination, but denied the right of Mr Aldridge to appear in the case.

The COMMISSIONER.—But if you admit that there must be an adjournment, I shall not go into a question of that kind, if it is not material to the consideration of the case.

Mr. *Holt.*—But I look at it as a matter of principle, and as raising a very important point in practice; and if it be necessary for this purpose I will object to the adjournment. I contend that the only cases in which Mr. Aldridge has a right to appear are those of prisoner debtors who have been adjudicated bankrupt by the registrar. I have the carriage of these proceedings from the date of the fiat, and I contend that I am entitled to conduct them now.

Mr. *Aldridge* produced his appointment from the Lord Chancellor, and laid it before the Court. It authorised him "to act as solicitor to all bankruptcies of prisoners in any prison within the metropolitan district who, since the 11th day of October last, have been or shall be adjudicated bankrupt upon adjudication made by a registrar without petition, provided no creditors' assignee shall be appointed to such bankruptcies respectively."

His HONOUR.—This is quite enough to enable him to be heard. If you are dissatisfied with my decision, you can appeal.

Mr. *Holt.*—I shall not quarrel with your Honour's decision; but you hold he can appear.

The COMMISSIONER.—As I said before, if you think I am wrong, appeal.

An adjournment was then ordered.

CENTRAL CRIMINAL COURT.

(Before the RECORDER.)

Jan. 7.—In the case of Henry Wells Young, a solicitor, who stands indicted for uttering certain forged powers of attorney, with intent to defraud the governor and company of the Bank of England, Mr. Metcalfe applied, on behalf of the prisoner, that the trial might be postponed until next session, on the ground that no notice had been given by the prosecutors that they intended to produce evidence in addition to that already given before the magistrates, and the prisoner's advisers required further time to consider the new matter.

Mr. *Giffard*, on the part of the prosecution, said that the fresh evidence spoken of by his learned friend was merely of a technical character, but under the circumstances of the case, if an affidavit were filed in the usual manner he would not oppose the postponement applied for.

The RECORDER said it was necessary that an affidavit should be filed; and, this having been done, the matter was ordered to stand over until the next session.

MANSION HOUSE POLICE COURT.

(Before the LORD MAYOR.)

Jan. 7.—Mr. *Freshfield*, the solicitor to the Bank of England, attended on behalf of the governors, and produced an inkstand made in porcelain, on the top of which was a fac-simile of a £5 Bank of England note, which he stated had been taken to the Bank of England by a gentleman who had purchased it, to know if the manufacture of such an article was an infringement of the law. The gentleman gave the name of the manufacturer, and, as he had given every information in his power, Mr. Freshfield refrained from mentioning his name, but said inquiries had been instituted, and the Bank authorities had decided not to take any steps in the matter, but merely desired publicity to be given to it, and to let the public know that it was an infringement of the Act 24 & 25 Vict., cap. 98.

The LORD MAYOR said that if any such case came within his jurisdiction, he would deal with it according to the provisions of the Act.

Recent Decisions.

EQUITY.

VENDOR AND PURCHASER — SPECIFIC PERFORMANCE — COMPENSATION.

Hughes v. *Jones*, L. J. 10, W. R. 139.

Until Sir Hugh Cairns' Chancery Amendment Act, 1858, the Court of Chancery had no jurisdiction to award damages in lieu of the specific performance of a contract; and, as a

general rule, the Court refused to decree specific performance. unless it could execute the whole agreement. But there is a certain class of cases which may be deemed exceptions to the last mentioned rule. Properly speaking, they cannot be considered as at all interfering with the rule, although, at first sight, they appear to do so. These cases may be classed under the general head of compensation. Where a vendor has not all the estate which he has contracted to sell, the purchaser may insist upon taking what the vendor has got; or where there has been some slight mistake or inaccuracy, but the contract can be substantially carried out, the Court will decree specific performance of the contract, and compel the party in default to make compensation. The object of Sir Hugh Cairns' Act is to substitute damages, either partially or wholly, for specific performance. The case of *Hughes* v. *Jones* proceeded entirely upon the old jurisdiction of the Court; and there the Lords Justices decreed that compensation should be given to a purchaser where the description of the particulars implied a fee simple in possession, but it turned out that there were some leases affecting part of the property.

EQUITABLE MORTGAGEE—REMEDIES OF.

Matthews v. *Goodday*, V.C.K., 10 W. R. 148.

The rights of an equitable mortgagee by deposit are not very clearly defined by the authorities. The reported cases relating to this question do not proceed upon any distinct principle, and are, therefore, not uniform in their result. This, no doubt, is mainly owing to the several different modes of creating equitable securities. Thus an equitable mortgage may be created by the mere deposit of deeds, even though unaccompanied by any writing to prove such intention, and, indeed, is sometimes inferred from the mere fact of deposit. Where the deposit is accompanied by a memorandum purporting to contain the agreement in relation to it, the character of the transaction, of course, depends upon the terms of such agreement. It may be agreed, for instance, simply that the depositor will charge the land comprised in the deeds; or the memorandum may provide that he will, if required, execute a legal mortgage, and it has been judicially considered that the remedies of the depositee in these two cases are not coincident. It has been held that where the equitable security is of such a kind as to entitle its holder to call for a complete legal security there the mortgagee's remedy ought to correspond as nearly as possible to that of a legal mortgagee. In such cases, therefore,—prior to the 15 & 16 Vict. c. 86, which empowered the Court of Chancery to sell mortgaged estates—it used to be considered that an equitable mortgagee of this kind was entitled to foreclosure only — such being the strict right of a legal mortgagee. But on the other hand, where the equitable security was no more than a mere charge upon the estate, the proper remedy was held to be by a sale. Vice-Chancellor Kindersley, in *Matthews* v. *Goodday*, adheres to this distinction. He considers that an agreement to charge real estate does not imply a legal mortgage, and, therefore, that the only remedy is by sale or by a suit to obtain the security of a legal mortgage. Where it was agreed that a legal mortgage should be given when required, then the Court would not only "decree a legal mortgage to be given," but would, also, "by the same decree, foreclose the mortgage, unless the money was paid." But his Honour thought that, where there was only a mere deposit of title deeds, and nothing more, there was no right to "ask for a legal mortgage." In such a case the depositor is treated as having only an equitable charge or lien, which entitles him to have the property sold for payment of the amount charged. So far the distinction is intelligible enough, although it does not appear to be be altogether reasonable. Where there is an agreement to execute a legal mortgage, the mortgagee is entitled to foreclosure:—where there is not such agreement the mortgagee is not entitled to foreclosure, but only to a sale. But an equitable security may be established by parol evidence, or, taken in connection with the circumstances of the deposit, may be inferred from the very fact of such deposit; and it being once established that every such transaction was in the nature of a mortgage, there seems to be no reason why it should not have all the incidents of a mortgage, or why the mortgagee should not be as much entitled to foreclosure in a court of equity as if he had clothed himself with a legal title. The distinction, however, is of less importance since the Court of Chancery has been empowered to decree a sale even in a suit for foreclosure. Nevertheless, this arbitrary distinction even yet frequently gives rise to such subtle disputes as arose in *Matthews* v. *Goodday*.

COMMON LAW.

PRACTICE—RULES OF COURT—AFFIDAVITS—CHANGE OF VENUE.

Mash v. *Ash*, Exch., 10 W. R. 85; *Brown* v. *Clifton*, *ibid.* 86.

Two or three points of practice are decided by the above cases, which, though trifling in themselves, may be usefully remembered by the practitioner. The first of these is that whenever a special rule is granted *on reading affidavits in its support* (as it usually, though not necessarily is) it must, when drawn up at the master's office, appear to have been so supported; and if that fact does not appear, the rule will be rescinded by the Court (if absolute in the first instance) or discharged (if *nisi* only) *quia improvide emanavit*. The next point (also settled by the first of the above cases) is that an affidavit cannot be used in support of an argument on a rule, as it were, *nunc pro tunc*—that is to say, before it is actually sworn although about to be immediately afterwards. And this, not even though the facts established by the unsworn affidavit are not disputed, nor though the omission of the *jurat* be waived by the other side. Such use by way of anticipation is contrary to the "course of the courts," and will not be tolerated.

The courts are, it may be remarked, extremely jealous with regard to the regularity and sufficiency of the jurats of affidavits. There is an express rule of court (Reg. Gen. H. T. 1853, Pr. r. 140) prohibitory of there being any interlineation or erasure in them; and any irregularity will be sufficient to vitiate the rule of which the affidavit is the foundation (see *Blackwell* v. *Allen*, 7 M. & W. 146); nor, as the general practice, will a defect or error be amended (see *Phillips* v. *Hutchinson*, 3 D. P. C. 392).

By the second of the above cases (*Brown* v. *Clifton*) the proper practice on changing venue is discussed. This matter of changing venue was one of those dealt with in the General Practice Rules which followed upon the Common Law Procedure Act of 1852. Before then, the order to change was obtained by the defendant as a matter of course, the plaintiff being, on the other hand, allowed to *bring back* the venue as originally laid, on his undertaking to give material evidence there arising. But by Reg. Gen. H. T. 1853, Pr. r. 18, it was ordered that no venue (unless by consent) should be changed without a *special* order—the effect of which is to give the other side an opportunity of being heard before it is granted; and of dispensing, in most cases, with the circuitous practice of afterwards bringing back the venue. Several cases have arisen upon the new practice of changing venue, one of the most important being that of *De Rothschild* v. *Shilston*, 8 Exch. 503; in which the Court of Exchequer took occasion to enunciate somewhat fully, the general principles on which the judges disposed of such applications; and laid it down that they were not disposed to interfere with the right of a plaintiff to lay his transitory action in what county he pleases, unless it could be clearly established that, by reason of special circumstances in the case, it could be more conveniently tried elsewhere.

These principles were again ventilated, in the case under discussion. The action was for a libel on an attorney, and the plaintiff had laid the venue in London. An order was made at chambers to change the venue to the county in which the plaintiff lived; on the ground that the witnesses as well as the parties resided there, and that the expense of a trial in London would be greater than a trial at the assizes. It was represented to the Court, on an application to rescind this order, that the above grounds were not sufficiently special, and amounted to little more (if any) than the "common" affidavit; and that the order at chambers was therefore opposed to the rule of court above referred to, as well as the spirit of the observations of the court in the latest cases. And it was further contended that even if the grounds shown by the defendant at chambers for changing the venue were sufficient to justify it, the fact that the trial would be delayed materially by such change was ground enough for its being restored. But the Court replied that the affidavits on which the present application was grounded, should have been used at chambers in answer to the affidavit of the defendant for a change of venue; and that at all events the proper course to adopt was not to attempt to set aside the order (which, when granted, at all events, was right enough), but to make a substantive application at chambers to have the venue brought back. It was, however, intimated by the Court that, in their opinion, the ground of *delay* simply was not sufficient to counterbalance the evil of *increased expense;* though it might possibly happen that when the pleadings were finished and the precise issue known it might appear that such delay would be, under the particular circumstances of the case, so prejudicial to

the plaintiff as to make some additional expense the least evil of the two.

LIABILITY OF SHIPOWNER—ACTION BY SERVANT AGAINST MASTER.

Searle v. *Lindsay*, C. P., 10 W. R., 89.

This is a case which strikingly exemplifies the fact that it is extremely possible for a man to suffer, at the hands of another, a serious injury, and yet be without any remedy, either against him or any other person—in other words, that the legal maxim, that "there is no wrong without a remedy" requires, like all other generalizations, to be received with caution, and is susceptible of considerable qualification.

The plaintiff in the present case was employed as an engineer on board a ship owned by the defendant. A head-engineer was also employed in the ship, by whose neglect the machinery became and remained out of order, in consequence of which the plaintiff was severely injured. At the trial the plaintiff was nonsuited on the doctrine founded (or, at least, for the first time defined and judicially recognized) in *Priestley* v. *Fowler* (3 M. & W. 1)—viz., that a master is not responsible to his servant for an injury he receives from the negligence of a fellow servant. A rule was afterwards obtained to set this nonsuit aside. And it was urged that the defendant, as *owner*, was responsible; though it was admitted the engineer he had engaged was competent, and the machinery good; and, also, that there had been no personal interference or negligence on the part of the defendant. The Court, however, unanimously held, that no such responsibility existed, otherwise (as it was observed) the liability of a shipowner would be without limit.

Of course the plaintiff might, if he thought fit, in this case have sued the *engineer*, which may seem to answer the above remark, that this was a case in which the law afforded no remedy. But the answer is not a substantial one; for in most of these cases, and (as may be presumed from the commiserating expressions of the judges) in the present case, the persons who actually caused the accident was not, from his pecuniary position, worth pursuing.

Correspondence.

WILL—MISTAKE.

I am obliged to your correspondent "B" for his well-considered reply herein. As, however, he has not apparently caught the "point at issue" of the query, I should be glad to have a further reply as early as possible. The executors have proved the will, and I wish to know whether the three sisters named therein can enter into any, and what, binding arrangements with the sister whose name is so unfortunately omitted, assuming they are all willing, as it is believed they are. Would "B." suggest an arrangement by deed, and that the husband of the married sister be made a party, as her share is not left to her separate use; and, if so, would the deed have to be acknowledged by the wife in accordance with the recent provisions of the 20 & 21 Vict. c. 57? I should also be glad to hear the opinion of any other of your correspondents.

J. T. S.

COMPOSITION—CREDITOR'S RECEIPT IN FULL.

None of your correspondents have answered my note in your number of the 28th ult. If none come to hand before your next publication, will you be so obliging as to answer it. See "Chitty on Contracts," new edition. The late Bankruptcy Act does not, I think, interfere with such an arrangement, which for some years past has been adopted by the profession in the North, to avoid law expenses, and I do think the late Act makes it more to be desired than ever, in consequence of deeds of assignment being obliged to be registered. I had hoped that my communication would agitate the question, and a cheap remedy and safe one would be adopted, in preference to deeds of trust and assignment, where all the creditors have agreed to accept the composition.

I am most happy to see that the *Solicitors' Journal* is *not* to be discontinued. I had been a subscriber to the *Law Times* many years before your Journal was established, but had my own reasons for changing to yours, which I have never felt occasion to repent of.

W. C. TURNER.

Bradford, Jan. 6, 1862.

In answer to the query of "An Old Subscriber" in your impression of the 28th ult. it appears to me that the agreement entered into is binding upon all the creditors, and that the receipts in full of all demands given by them might be pleaded in bar to any action for larger amounts, provided that the terms of the agreement be strictly complied with on the part of the debtor. See *Steinman* v. *Magnus*, 2 Camp. 124; *Heathcote* v. *Crulkshanks*, 2 T. R. 24; *Wood* v. *Roberts*, 2 Stark. 417; *Brady* v. *Shiel*, 1 Camp. 147.

It does not appear to me that the transaction is at all affected by the operation of the new Bankruptcy Act; and except a deed of assignment should be executed, I think that that Act does not apply to the case.

W. T.

POSSESSION OF A HOUSE FOR PURPOSE OF LETTING IT—REFUSAL TO GIVE UP POSSESSION.*

The man having been placed in possession, merely for the purpose of letting the house, on the terms of being paid when it was let, acquired *no estate* in the premises. He was a mere servant, and his possession was his master's possession, and he can be turned out forcibly; it is not necessary to bring ejectment. This has been decided in two very recent cases *White* v. *Bayley*, 10 C. B. N. S. 227; and *Mayhew* v. *Suttle*, 5 El. & Bl. 347. In the former case the plaintiff had been placed in the defendant's shop and house to manage a special bookselling business on the terms of being paid a commission on the sale of the books, and also with liberty to carry on a general bookselling business, with a six months notice of separation on either side; the plaintiff being dissatisfied, the defendant then forcibly ejected him, and upon an action of *trespass* for *breaking, and entering, and turning him out*, the plaintiff was committed. There may, according to these circumstances, be a good action for breach of contract, or wrongful dismissal, but no trespass; therefore ejectment is not necessary.

W. W.

STUBBS' AGENTS.

I cannot help expressing my satisfaction at, and entire concurrence in, the remarks in your number of the 28th December last, headed, "Stubbs' Agents."

Some years ago I was induced to accept the appointment of "agent" for a provincial town, not perceiving at the time the drift of some of the crafty conditions imposed.

Having, however, been engaged in making inquiries for Mr. Stubbs respecting some half-dozen proposed customers of subscribers, involving journies, loss of time, and a good deal of trouble, I sent in a very moderate charge for the same. I was, however, met by a refusal to pay me anything, and the intimation that the advantage of having the "circular" gratis, and the per-centage upon debts collected (6*d*. in the £1), was sufficient remuneration!

I, in consequence, at once withdrew my name, ashamed and disgusted at having been made a tool of by Mr. Stubbs—who, it appears, is in receipt of £20,000 a-year through the instrumentality of 700 professional men subservient to his interests!

Sad, indeed, must be their position when they condescend to accept the pittance thrown out to them by "Stubbs"—and the sooner they "strike" for higher wages the better!

AN OLD SUBSCRIBER.

ARTICLED CLERK—EXPIRATION OF ARTICLES BEFORE MAJORITY—EXAMINATION.

Would any of your readers inform me whether an articled clerk, whose twenty-first birthday is at the end of the term during which the examination takes place, can go up should the examination take place before he is of age—of course at the expiration of his articles.

AN ARTICLED CLERK.

THE MIDDLE TEMPLE LIBRARY.

The weather in the Middle Temple Library is what old salts call "breezy;" and there may presently be wind enough "to blow a settlement along." I hold up the paper on which I have been writing, and the eddying draughts wave it backwards and forwards like an aspen leaf. I feel a cold wind blowing on my face, although the doors and windows are shut; and when I turn my head round to see which way the wind blows, a puff of hot air from a flue reminds me that the arctic and equatorial regions are not far apart. In one corner of

* *Ante*, p. 157.

the library where the grim law reports snuff the air, I am told the draughts of wind would raise the hair of your head; but dread of a rheumatic attack prevents me trying my own experience in that dreadful corner, where Boreas is said to reign; while the more jocund Æolus is elsewhere engaged in urging the wind to winnow the legal chaff from the legal lore. When the blustering deities have united their forces, and the draughts, in March, come to a stiff breeze, I shall send you a recital of how "Beavan" nods to "Bingham," and how "Moody" and "Haggard" look after facing strong squalls. It is suggested that the draughts in the new library arise from the angular form of the roof; but surely it was somebody's business to foresee and guard against this conflict of the elements. If the draughts cannot be stilled, the library will, at least during winter, have a double claim to the title of Middle Temple Library; for some members of the bar, including myself, have resolved to shun the abode of the mutinous winds. Perhaps a gothic architect well unctuated with golden lard might be able to wrestle with the gods of windy draughts, and force them down into the caves from which they have issued to harrow up the cold and rheumatisms of, yours truly,

ANTI-BOREAS.

Foreign Tribunals and Jurisprudence.

FRANCE.

The Civil Tribunal of the Seine has recently been occupied with the trial of an action for breach of promise of marriage, brought by M. D., a native of Berne, but filling the post of clerk in a commercial house in Paris, against Mdlle. L., a milliner. Having made her an offer of marriage, he had been duly accepted as her future husband. In order to effect the union, he went to Berne to procure the necessary papers, and while there he received from the lady a written acceptance of his offer of marriage, which enabled him to publish the necessary banns as required by the Swiss law. He had also before going to Berne, expended certain sums of money in preparation for his marriage, and had taken an apartment for 3,750f. a year in the Rue St. Honoré. The lady, however, during his absence, felt her love for her intended somewhat decline, and soon after sending him the above acknowledgement, despatched a letter breaking off the marriage. He returned to Paris, and thinking himself justified in demanding damages from the lady for her caprice, and also the reimbursement of the expenses he had incurred, brought an action. The counsel for the defendant denied the claim of the reimbursement, on the ground that the plaintiff had expended his money unnecessarily, and that, with regard to the apartment he had taken, it was contrary to the advice of the lady, and he had moreover re-let it immediately, and therefore had sustained no material loss. The court admitted the right of the plaintiff to claim repayment of the expenses he had been put to, but at the same time thought the outlays made by him were premature, and therefore only condemned Mdlle. L. to pay 500f. and the costs.

A recent important decree in the *Moniteur*, founded on a report from the Minister of State, appoints a commission of twenty-six members, with the Minister as president, and Count de Persigny and M. Rouland as vice-presidents, charged to prepare a bill for regulating literary and artistical property by a special law.

PRUSSIA.

One of the first bills that will be presented to the Chambers in the approaching session will have for its object the organisation of tribunals of commerce and the course of procedure to be followed by them. As the new general code of commercial law comes into operation on the 1st of March next, the necessity of this new bill is evident, and the general impression is that it will meet with no serious opposition in the Chambers.

AUSTRIA.

The text of the bill relative to mixed marriages, drawn up by the Austrian Government, has just been published. "It gives to the parents of different religious persuasions the option of educating their children in the religion of the father or the mother without either party having the right of complaint. In case of an understanding not being come to on the subject the boys are to follow the religion of the father and the girls that of the mother. Relative to marriages between Catholics and non-Catholics, the declaration of consent made before the non-Catholic minister, in the absence of a Catholic priest, is to be considered valid. The restrictions placed on the authority of the parents relative to the domicil of their children, and on the choice of masters or of tutors, are abrogated. Children after the age of seven are at liberty to embrace any religious creed which they may prefer, and for that purpose, except in the case of danger of death, the political authority must declare that the conversion has taken place with full liberty of conscience." This bill is an additional proof of the deep transformation which is being effected in Austria.

Reviews.

An Inquiry into the present State of the Law of Maintenance and Champerty, principally as affecting Contracts. By WILLIAM JOHN TAPP, Esq., of Lincoln's-inn, Barrister-at-Law. London: V. & R. Stevens & Sons.

The author observes in the preface, that "there can be no question of the interest, which as a matter of constitutional and legal history, must attach to the inquiry, as to how far principles which occupy an important prominence in the structure of our law, may continue to possess any living efficacy." This is a very philosophic and discreet observation. It may happen that a rule which is, in its inception, strictly technical will become, in the progress of time, so interwoven with our system of jurisprudence as to subserve of itself manifold uses. An instance of this kind was the rule which required the recoveree in a recovery to be able to make a good *tenant to the precipe*. The technicalities usually incident to the creation of a tenant to the precipe by the tenant for life, in an ordinary settlement, were swept away by the 3 & 4 Will. 4, c. 74, the Act for the abolition of fines and recoveries. Nevertheless, the very substance of the technical rule that the tenant in tail should have the consent of the first tenant of an estate of freehold under the settlement creating the entail, was preserved in the Act we have just cited.

The rule was one of "living efficacy." But, to come to the subject of which the work before us treats, we find in the present law against maintenance and champerty the perpetuation of a common law rule, although the causes which led to its establishment have long ceased to operate, and though itself does not, and cannot possibly, subserve any useful end. The reason of the rule against champerty is to be found in that of the comprehensive maxim, *expedit reipublicæ ut sit finis litium*. It is not, we think, referable to the jealousy with which the judges unquestionably regarded the formidable Norman barons, against whose attacks the halberdmen would have offered but a feeble resistance. The rule against champerty would never prevent a powerful baron from aiding a litigant by counsel and by money. But the true reason appears to be this:—Our law of personal property, so far as it was administered in the common law courts, was built up with a close analogy to the law of realty. The technical rules of the latter, which suited well enough the settled devolution of estates by descent, not unfrequently, however, were wholly inapplicable to elucidate questions relating to contract. The consequence was, that to make the old rules applicable, the sphere of contract was restricted within convenient limits. At that period, legislation was often invoked to make new contracts, or, as was the case in respect to champerty, to restrict them. Moreover, there was no very settled period of limitation. In lieu of such, the judges had recourse to various expedients, such as presumptions of the concurrence of right with possession, fictitious legal adjudications and certain positive rules of which that against champerty was one. We find a connexion in principle between this class of rules, and the old maxim "*Actio personalis moritur cum personâ*," which is still the law of the land, except so far as it has been overruled by express legislation. Claims arising *ex delicto* were not at common law transmissible to the representatives of a deceased claimant; and, even at the present day, it is only by means of the liberal interpretation which the statute, 4 Edw. 3, c. 7, has received that certain proprietary rights of a deceased person can be enforced. The rule that a *chose in action* is not assignable at law is another and very comprehensive instance of the class of legal principles that we are now considering. All these appear to have been invented by analogy to the rule relating to real property, which required that the freehold should not be in abeyance, but that the right and possession should concur in the same party. The aversion, on the part of the common law courts, to regarding bare rights as transmissible

either by deed or will, or by descent, is patent throughout our whole legal system. The inconvenience of the rule has been so great, that it has found little place in *commercial* law: bills of exchange, and promissory notes, have been assignable from the earliest times. The generality of the exception has removed much of the pressure occasioned by this common law rule against assigning *choses in action*. But it is, nevertheless, even at the present day, exceedingly inconvenient in restricting the negotiability of bonds and many other *choses in action*.

Our author describes very well and succinctly the various inroads made upon the common law doctrine against assigning *choses in action*. It was first invaded by the permission given to an assignee to have the benefit of such covenants as ran with the land—which Mr. Tapp considers to have been anterior in date to the use and assignment of bills of exchange and promissory notes. We do not think so. Jewish merchants, to whom the first use of those instruments is commonly ascribed, have been settled in England from the earliest times, and it is likely that they always had recourse, when necessary, to the use of those instruments. The practice of foreign attachment (the prototype of garnishee orders) was the next onslaught which the inconvenient rule we are now considering received. The transfer of rights of action by the law of bankruptcy was the latest statutory invasion of this rule.

Maintenance and champerty, as our readers are aware, denote the assistance of another in a law suit—the distinction between both terms being that the former is gratuitous, the latter for some pecuniary benefit. All champerty is, consequently, maintenance, but all maintenance is not champerty. Both champerty and maintenance differ from the bare assignment of a *chose in action* in that the former directly points out a law suit as the means contemplated by the parties for obtaining the benefit sought by them. This distinction is elucidated by Mr. Tapp with great clearness and precision. He treats in the third chapter of cases which appear to be, but are not in reality, cases of maintenance, such as the sale of an interest *pendente lite*, or even a mortgage of it, even though the sole object of making the mortgage should be to obtain funds to prosecute the litigation; *Cockell* v. *Taylor*, 15 Beav. 103. This case, decided by the present Master of the Rolls, shows that the rule against maintenance can only apply where the success of the litigation forms an element of the consideration for the contract. The author discusses the question "What rights are assignable," and in respect to it correctly observes, "With respect, however, to obligations arising *ex delicto*, or torts, at least those affecting only the person and not the property of the injured party, and also in regard to those contracts the breach whereof affects only the person or personal feelings, such as a contract to marry, &c., cases which have been sometimes described as those where vindictive damages would be given, it may be doubted if the ancient doctrines of the common law have even been relaxed in regard to them, and no instance has been met with where the assignment of such a right or action has been recognised." The example given by Mr. Tapp in support of the position maintained by him in this passage is not quite felicitous. If every *chose in action* was assignable both at law and in equity, we do not think that the assignment of a contract to marry, &c., would be of frequent occurrence. But this general class is of very great importance, and comprises very many rights, which, even in the present state of the law, are the subjects of assignment, although the assignee must have recourse to equity, if it be necessary for him to take legal prpceedings to enforce his demand. The author shows that the rule against maintenance does not apply to parties related to each other as father and son; but that it extends (inconsistently, we think), to any more remote degrees of relationship. The fourth chapter treats of the "peculiar disabilities of attorneys and other persons connected with the administration of justice," but only in respect to the rule against maintenance. The author gives the following opinion as a corollary deduced from the decided cases:—

"If, by the terms of the agreement between the parties, or by collateral circumstances, it should appear to the Court to be the real intent of the transaction, that one person who may be willing or desirous to embark in, or continue, litigation for the recovery of a doubtful right, is to be substituted for another who would not have himself embarked in, or continued, such litigation; or is to be associated in interest with another who would not, or but for the inducement or assistance afforded by the arrangement, would not, have embarked in, or continued, such litigation; or if it appear that there is litigation directly in contemplation of the parties; or if there be any collateral, or other object, in view, besides the fair exercise of the, now admitted, right of transferring *a chose in action*; or if the nature of the agreement furnish an inducement to one of the parties to promote the success of a suit by uncandid and insincere evidence, or other improper means; then, the transaction will not be upheld, notwithstanding the ostensible terms of the agreement may even appear to be without objection.

"But, if the spirit in which the parties enter upon an agreement, be candid and *bonâ fide*, and the object be only to transfer a right, which is honestly believed to exist, and to be then vested in A. to B., with the intention that B. should only use the same lawful means for the recovery or enforcement of the same right, which it is presumable A. would have done, and there be no obligation passed upon either party, and no greater inducement created, for their resorting to, or continuing, litigation, than may be supposed to have previously influenced A.—then (subject to any effect which the statute of Hen. VIII. may still have in regard to the transfer of interests in land of which the party is out of possession, no exception can be taken to the transaction on the ground of maintenance."

The author approaches his subject with a keen discernment of its relations to the development of our legal system. He has also formed a very philosophic conception of the confusion which the rule against maintenance has occasioned in our law, by requiring it to determine the validity of so great a variety of assignments of real, and, especially, of personal, property. He appears to have well understood the task of an author, and his work possesses a very high degree of literary merit. The extracts we have given are not the best written portions of this treatise, which is very lucid and graphic throughout. It is a pity that he did not treat of the more general question "what rights are assignable," as the basis of his book. Few will consult a work which professes to treat of maintenance only. To such as may have occasion for such a reference we confidently recommend this treatise as able, exhaustive, and elaborate.

Rules, Formulæ, and Tables for the Valuation of Estates, in Possession or in Reversion; with New Rules and Tables for ascertaining the correct market value or fair price to be given for Annuities, Reversions, Advowsons, and Next Presentations, in order to secure to the Purchaser a certain Rate of Interest on Equitable Terms. By W. DOWNING BIDEN, F.G.S., Actuary, &c. C. & E. Layton. London. 1861.

Practical Rules for Valuers; with Notes on the Valuation of Freeholds, Leaseholds for Lives or for Years, Copyholds, Advowsons, and Next Presentations; also on Claims for Compensation and for property taken or damaged by the construction of Railways and other Public Works. By W. DOWNING BIDEN, F.G.S., Consulting Actuary. C. & E. Layton. London. 1862.

To all who are engaged in the valuation of estates whether in possession or reversion, or of annuities, reversions, advowsons, and presentations, the tables compiled by Mr. Biden will be found very useful. As the nature and object of the work can be better explained in the author's own words, we extract the following from the preface:—

"The formulæ and tables were investigated and computed for private use; and, for purposes requiring considerable accuracy, many of the tables were calculated to a degree of nicety not requisite in ordinary practice.

"Many of the formulæ and rules are contained and demonstrated in large and more expensive works, but some of them are believed to be new; and, as these have been investigated to meet the requirements and test the results of daily practice, it is hoped they may be found useful by many who have hitherto been content with rough approximations or shrewd guesses, but who may wish to be more accurate in judgment, or able to explain their views satisfactorily and to give a sound reason for their opinion.

"The tables containing the values of annuities, reversions, and fines, the amounts of capital sums and annuities accumulated, and the annual sinking fund required to secure a capital sum at a future time, at various rates of interest and for periods of from 1 to 100 years, were calculated with accuracy to the 10th or 12th place of decimals. They were then compared, as far as practicable, with Smart's Tables; and, where differences were noted, were twice re-calculated, to ensure correctness. In this process several errors have been detected in Smart's values.

"The 3 per cent. tables, throughout, are given with greater fulness than others—because money, invested in real securities

for many years, is found to realize that rate of interest:—it is in fact, the normal rate of interest in this country at the present day; and it is considered that it should be taken as the basis of most, if not all, monetary transactions. Higher rates are, however, frequently employed by valuers—sometimes to cover want of care in reducing gross to net incomes, and thus, by a ready but reckless method, to bring results within the domain of experience; and sometimes in order to satisfy the desire of purchasers or investors to secure a larger interest for their capital than can be derived from funded property. Tables calculated for higher current rates are, therefore, given; but, because risk is increased, security diminished, and accuracy is very problematical at rates higher than the current rate of the time, these tables are given to a less degree of nicety and less fully.

"To meet the requirements of those who wish for high rates of interest as well as security, tables are given showing the price at which an annuity or rent must be purchased to secure to the purchaser a given rate of interest, and leave an annual surplus sufficient, if invested at 3 per cent., to replace the purchase-money by the time the annuity ceases.

"The ordinary tabulated values of reversions are found on the assumption of a current rate of interest at 3, 4, 5, 6, and other rates per cent.—*i. e.*, on the supposition that the party purchasing a reversion can also purchase an annuity at the same rate, or is willing to place himself in the position of granting one at that rate.

"A new table has been calculated, showing the worth of a reversion falling due on the death of any assigned life, and allowing the purchaser to secure himself by an annuity at 3 per cent. to cover the interest on his outlay.

"Additional formulæ will also be found by the use of which vendors and purchasers of reversions, whether certain or contingent, may estimate the net values of such properties, after making the necessary allowance for assurance against risk.

"It has been usual to calculate the value of a contingent reversion, as well as of one dependent on life, by the use of the old 5 or 6 per cent. tables, deducting a sum by way of margin for risk; but a purchaser securing himself by the use of the new tables and formulæ, may now fairly be expected to be satisfied with a rate of interest nearly approximating to the current rate, and can have no excuse for making any further deduction, except for necessary expenses.

"The whole of the tables are calculated to a unitary basis, and expressed decimally, as no mode of calculation is better adapted for general use and no other is so simple."

The second of Mr. Biden's works has been prepared for the use of those who prefer verbal to symbolic expressions. But Mr. Biden's "Rules and Formulæ" are so frequently referred to throughout as to render the latter an almost necessary adjunct. However, those who are not deeply versed in figures will, no doubt, find Mr. Biden's "Practical Rules for Valuers" answer their purposes extremely well.

The Law and Practice of Arbitration and Award; with Forms. By JOHN FREDERICK ARCHBOLD, Esq., Barrister-at-Law. W. H. Bond. London, 1861.

This work does not affect to be an elaborate treatise, but rather a little manual for the use of those who are sometimes engaged in the *business* of arbitration. It is divided into five parts, treating of, first, The Reference, second, The Hearing, third, The Award, fourth, Setting Aside the Award, and fifth, Enforcing ihe Award. It will thus be seen that the plan has the merit of simplicity, and we can say that the execution is not discreditable to its author, who, as our readers are aware, has already written some good books.

A Supplement to the Seventh Edition of "Oke's Magisterial Synopsis, containing the Criminal Law Consolidation Acts, 24 & 25 Vict. cc. 94 to 100, alphabetically and tabularly arranged as in the original work; with a Comparative Table of the Old and New Statutes, and the Alterations. By GEORGE C. OKE, Assistant Clerk to the Lord Mayor of London. Butterworths. 1861.

Mr. Oke's "Synopsis" is so well known to all practitioners in criminal courts that it is unnecessary for us now to give any account of it. The present work is a *supplement* to the seventh edition and has been rendered necessary by the Criminal Law Consolidation Acts of last session. Mr. Oke appears to have a special talent for tabulation, by means of which he shows at a glance general results, such as in ordinary books can only be arrived at by a considerable amount of labour. The work now before us contains a comparative table facilitating ready reference, as between the old enactments and those which are substituted in the Consolidation Acts; and also showing, in the most convenient manner, what *alterations* have been made, either by way of addition, repeal, or amendment. This table is intended to enable persons to correct readily earlier editions of the "Synopsis" by substituting references to the new Acts for those which have been repealed.

The Lawyer's Companion and General Day-Book for 1862; *containing a Law Calendar; a Summary of Practical Statutes; an Index to the Acts of Parliament of the past Session; copious Schedules, with practical information relating to the Stamp Duties; Interest, Income Tax, Annuity and other important Tables; including various useful matters of daily assistance to Attorneys and Solicitors, Public Companies, Justices, Merchants, Estate Agents, Auctioneers, &c. Select Legal and Commercial Forms; the General Orders of the County Courts; and a Diary for the present year; together with a London and Provincial Law Directory.* Edited by H. MOORE, Esq. V. & R. Stevens. Sixteenth year.

The Law and Commercial Daily Remembrancer for 1862, *containing an Analysis of the Statutes passed* 24 & 25 *Vict., &c., &c., &c., Forty-first year.* Dunn & Duncan.

With respect to the first of these publications we can only repeat what we stated in our review of Mr. Moore's Diary for 1861, that it is one of the most serviceable and useful of legal diaries, and that it will be found by articled and managing clerks a very convenient book of reference in their daily avocations. The present volume contains a great increase of matter, to the extent of eighty pages, beyond that of 1861. Many new forms in daily use have been added, and the tables of stamp duties, together with the index to the statutes, have been re-arranged.

The diary published by Messrs. Dunn & Duncan likewise contains much useful information, and, though not so large a book as that edited by Mr. Moore, is conveniently arranged, and will be found very handy.

REPORT OF MR. HUBBARD'S COMMITTEE ON INCOME TAX.

A few weeks ago we gave some account of the Report of the Select Committee of the House of Commons which was appointed last session to inquire into the present mode of Assessing and Collecting the Income and Property Tax, and whether any mode of levying the same, so as to render the tax more equitable, could be adopted. Mr. Hubbard, the chairman, proposed to the committee a scheme, the principal features of which were as follows:—

1st. A proposal to make net, instead of gross, income the basis of assessment to the tax; not ascertaining the net income by an account of actual outgoings, but assuming it by a deduction, founded on an average, from certain classes of gross incomes.

2nd. A proposal to divide all incomes into two classes, of which the one should comprise incomes called spontaneous, and the other incomes called industrial; and to tax the former upon the full amount of the net income, and the latter upon two-thirds of that amount.

3rd. A proposal to distinguish in certain cases between the interest of invested capital and the repayment by instalments of the invested capital itself, and to levy the tax upon the interest only, and not upon the repaid portions of capital.

Mr. Hubbard urged particularly upon the committee that the present system presses too hardly upon skill and industry as compared with property. The committee, however, declined to adopt his scheme, but offered no suggestions for the amendment of the existing law.

Mr. Hubbard's draft report is so masterly an exposition of the defects of the present Income and Property Tax Acts, and gives so satisfactory an account of the plan proposed for its adjustment, that we think it right to lay before our readers that portion of it which relates to

"*The Assessment of Industrial Incomes.*

The defects of the existing law are all connected with incomes derived from invested property, and the remedies sug-

gested by the evidence, are directed to the recovery of that which is the proper subject of taxation, viz., the net income available for expenditure. Adam Smith's axiom, "The subjects of every State ought to contribute towards the support of the Government as nearly as possible in proportion to their respective abilities—that is, in proportion to the *revenue which they respectively enjoy under the protection of the State*," may be taken as a safe guiding principle; but as it is obviously beyond the power of legislation to deal with individuals, it must be satisfied to deal with classes, and as even classes are severally subject to great variety of circumstance, they must, for the purpose of legislation, be viewed, not in their exceptional and extreme cases, but in their general character.

In the second class of the plan submitted to the committee are ranked as "industrial incomes," those (now assessed under schedules B., D., and E.), of which the distinctive features are, that they are the earnings of skill and intelligence combined with the use of capital in varying degrees, but dependent for their continuance on the life, health, and efficiency of their owners. That receipts of this character are in a very different degree from the products of invested property available for expenditure, and, consequently, taxable, is the conclusion to which the evidence submitted to your committee leads.

The opinions of several eminent statesmen of the present day, cited by Mr. Newmarch, upon the inequalities and injustice of the present tax upon trades and professions, may be summed up in the words reported as used by Mr. Gladstone on the 12th of May, 1853; "I did not contest the opinion commonly entertained, that intelligence and skill were too hardly pressed upon as compared with property."

That this opinion is widely and firmly entertained by those who feel aggrieved, your committee can have no doubt. The witnesses representing the medical profession insist upon the hardship of 'professional men, gaining their livelihood from day to day by the exercise of their brains, and in accordance with the state of their health, being taxed like those who have no such anxiety regarding their means of livelihood;' *and Mr. Cookson, speaking as "President of the Incorporated Law Society," stated the feeling of the members of that society to be "a strong sense of injustice in the produce of their hands and brains being rated to the Income Tax at the same rate as incomes derived from land and capital and money in the funds."*

In the opinion of your committee, these assertions and admissions of the unequal pressure of the tax urgently require the consideration of the best means of relieving it.

The proposition submitted to your committee is, "that industrial profits or earnings shall, previous to assessment, be entitled to an abatement of one-third of their amount."

The grounds alleged for this proposition may be briefly stated thus:—

a. Savings should not be taxed.

b. The savings effected out of incomes derived from invested property (or, as they are briefly called, *spontaneous incomes*) are estimated at one-tenth.

c. The savings effected out of industrial incomes are estimated at four-tenths.

d. The amounts which would be assessed under these two classes being nearly equal, the adjustment is simplified by striking off one-tenth on either side, and then reducing by three-tenths, or one-third, the accessible amount of industrial incomes.

This estimate of the relative savings of the two classes is avowedly an arbitrary one, but the concession which it involves agrees with the average result of the scientific computations of Dr. Farr, and receives the approval of Mr. John Stuart Mill.

On the other hand, as a measure of relief, a concession of one-third would be willingly accepted by the legal and medical professions.

Your committee are aware, that to warrant this proposed concession, the distinction between the first and second class should be real, and be one not only justifying an essential difference of treatment, but capable of being defined by a distinct line of legal demarcation. In the first class they find incomes which accrue to the owner independently of his own labour, which are the result of invested capital, and are assessable *at the source*, so that before they reach the owners, these incomes are for the most part taxed: rents in the hands of the tenant, interest in the hands of the borrowers, and dividends in the hands of the companies who distribute them.

In the second class are comprised all "industrial incomes," whether trading, or manufacturing, professional, or stipendiary. Their characteristics are, that they are dependent on the labour of their owners, and they are assessable for the most part only through the concurrence and self-assessment of the tax payer.

In one sense *all* incomes are dependent upon labour; neither rents, interest of money, dividends of companies, nor dividends in the funds, can accrue without the labour of those who till the land, employ the money, work for the company, or out of their industry provide the revenue to pay the public dividends; but, "*industrial* incomes" are distinguishable from those which have been called "*spontaneous*," in this; the labour of the owners of the latter class of incomes is not requisite for their production. They are free to employ their talents, their labour, or their time in any way they please; the income derived from the investment of their capital needs not their assistance.

"Trading companies" and trading partnerships in the same line of business may, at first sight, appear scarcely distinguishable from each other; but there are essential differences in their action, and in the taxable results.

In a trading company the labour of the clerks, managers, and directors is all paid for; reserves are made for depreciation, casualties, or exhaustion, and the dividends represent the net return for the capital invested by the shareholder.

In a private partnership the management and supervision are carried on by the partners in the firm; some may provide the capital, some the supervision, but the profits combine the reward for the management and the returns for the capital; they are industrial profits divisible amongst the partners. The partners contributing capital only, are called sleeping partners, and there may be no important difference, so far as their personal fortunes are concerned, between them and shareholders of a public company; but the shareholders of a company may always secure a limited liability, which partners in a private firm cannot. Practically, the tax collector knows nothing of sleeping partners; it is the entity of the partnership, the firm, which he assesses; and whatever the proportions in which capital and labour are contributed, the partnership is entitled to the character and privileges of an industrial pursuit.

Professions have been by some authorities (and your committee may specify Dr. Farr and Mr. John Stuart Mill) considered as requiring a separate treatment, if it be possible to make a practical separation. "Professional men," it has been remarked, have "little or no visible capital contributing to their profits, which are almost exclusively the result of their personal exertions, and they should be assessed upon a more indulgent scale than applies to the combined gains of capital and labour in trading profits." Undoubtedly, the elements of the trading and professional profits are not identical; but your committee do not believe that it would be possible either to distinguish *professions* from *trades*, or to obtain from traders the amounts of their capital in trade, which would be requisite for the separate assessment of the annual value of their capital, and of the gains created by their labour apart from capital. It may be doubted indeed whether, looking to the proportion of savings as the plea for exemption, the claim of traders would not be even larger than that of professional men. In the event of a discrimination between trading and professional profits being found impracticable, Mr. Mill expressed as his deliberate opinion, that the proposal of uniting them in the same measure of relief should be adopted.

Electing as his guide the principle of exempting savings from taxation, Mr. Mill propounds as the theory of a perfectly just income tax, that wanting evidence of the amount of actual savings, the circumstances of each individual as influencing his power and disposition to save should be considered; and that a life income should be taxed partially only, and in proportion as the tenure taken in conjunction with other circumstances capable of being defined, should indicate a greater or a lesser obligation to save. On the one hand, Mr. Mill's theory requires the taxation of capital, when sunk in life annuities and destined to be consumed, and on the other it requires the reimbursement of the tax levied upon rents, or dividends, to whatever extent the wealth or parsimony of their owners may have induced them to save. In fact, the perfection of Mr. Mill's theory of an income tax depends upon the degree in which it approximates to a tax upon expenditure.

Premising his preference for a system which should carry out his theory of a perfect tax, Mr. Mill expresses his decided and clear opinion, that if that theory be found impracticable, industrial incomes should receive the concession to which they are entitled by the peculiar force of their claims.

Dr. Farr re-affirms his confidence in the equity of a tax as proposed by Mr. Hume to be assessed on property, according to the value of the property, the tenures, and the age of the owner. But it is no part of Dr. Farr's theory to release from

taxation in virtue of its tenure, any portions of the net income derived either from rents or interest of money. He would in some cases of tenure, short of the fee, charge the tenant only upon the value of his limited tenure, but he would in every such case charge the residue of the tax upon the reversioner, so that the Exchequer would always receive the full tax upon the whole of the net income of the country.

Retaining his preference for a capitalisation scheme, Dr. Farr concurs generally in the principles of the plan under the consideration of the Committee, and would be glad to see it substituted for the present income tax, as much more conformable to justice, although not adjusting taxation to each individual case as proposed by the capitalisation scheme.

Apart from the administrative difficulties of a capitalisation scheme, your committee are not disposed to believe that the principle of adjusting an *income* tax with reference, first, to the value of the property which produces it, second, to the tenure on which it is held, and, third, to the age of the owner, is essential to the construction of an equitable income tax although for the equitable assessment of a property tax these considerations may be expedient. To adjust the tax upon every income by yearly reference to the age of the owner must, if the tax be continuous, have the effect of inconveniently varying its amount without affecting the average of the burthen during the period of its incidence.

To divide the tax between the life tenant and the reversioner of an income, with the admitted necessity of making the life tenant advance to the State the portion due from an unknown, or uncertain, or an incapable reversioner, would, in the great majority of cases, involve the life tenant in a complicated and embarrassing system of indebtedness to his predecessors, and of claims upon his successors, without affording him any alleviation of his fiscal burthen.

To measure the tax upon income by the value of the property which produces it, is open to less objection than either of the preceding propositions; but it would be attended with so much uncertainty in the recurring valuations, with such temptation to undervalue on the part of the tax payer, and with such conflict of opinion between him and the assessor, that the scientific precision which it aims at would be, in the opinion of your committee, too dearly bought.

Nor is it the opinion of your committee that the theory enunciated by Mr. Mill (which would assimilate the action of the income tax to that of a tax on individual expenditure) is the most eligible. They admit the recommendations possessed by indirect taxation, if levied upon articles of general consumption. The tax is, under such circumstances, paid almost unconsciously, and therefore without repugnance; it is paid by individuals in proportion to the consumption of which they defray the cost, either directly in their own families, or indirectly through the labour they employ; some may spend more, some may spend less than they can afford, but the variations are the result of individual will, and the general result of indirect taxation is to "tax men according to their means, *defined and limited by their expenditure.*

Indirect taxation, while it operates with perfect fairness upon individuals, has, however, when imposed upon articles of general consumption, the demerit of obstructing the industry and commerce of the country, and requires therefore to be discreetly used; but even its peculiar merit of taxing people according to their expenditure, is not necessarily a merit when applied to *direct taxation*. That the field of incidence (the amount of general expenditure) should be the same for direct and indirect taxation may be admitted, consistently with the opinion that the Income Tax may beneficially neglect in separate cases the consideration of what a man does spend for the assessment of what a man has to spend, and that as contrasted in that respect with the customs and excise, it may press more leniently on inadequate incomes, and more heavily on those which are superabundant.

Upon these considerations, your committee are of opinion that the unequal pressure of the present tax on skill and intelligence may fairly be redressed by a diminished assessment of one-third in the amount of industrial incomes, and that such an adjustment would in no degree require or involve any deviation from the existing practice of assessing rents, dividends, and interest, irrespectively of their tenure.

The 54th section of the 16 & 17 Vict. c. 34, provides for an abatement not exceeding one-sixth of his assessment to any person who shall have paid so much as annual premium on a life assurance; this section obviously admits that savings invested in a life assurance are not a part of a man's income which is fairly taxable. But it appears to your committee that, consistently with this admission, savings in any form are equally entitled to be exempt from taxation, and that the application of this principle to a class, instead of to individuals, sanctions a general mitigation of the tax to the class which may show, in the additional magnitude of its savings, its title to this concession. In its present form this intended indulgence to savings is nearly inoperative. Mr. Till informed the committee, that the benefit which the Legislature intended to bestow, does not meet the case of a very large class of tax payers, who as clerks are rated on salaries of £100 and upwards. Of 1,263 clerks in public companies, with salaries between £100 and £150 a year, only 32 had claimed relief on account of insurance, and of 3,900 persons rated at above £150, only 151 had claimed relief on the same plea.

The concession which has been suggested to industrial incomes is already given, and, under possible circumstances, even exceeded, when profits are returned in annual amounts widely varying from one another. The 133rd section of the Act 5 & 6 Vict. c. 35, provides, that any person having been assessed upon the average of three years, shall pay for the fourth year upon no higher amount than he shall make in that year. The result of this provision is, as illustrated by the example given in evidence by Mr. Pressly, that a trader may make £400 a year upon an average of years, and pay upon only £249, a reduction of three-eighths of the duty on which he would be assessed if his profits were uniformly £400 a year. Under the extreme supposition of a trader making alternately profit and no profit, his assessment would be reduced to *one-half* of his actual gains. Effectively, the law says to the trader in the case cited, "Make your profits unequally, and you shall be assessed upon five-eighths only of your profits."

The origin of this section may easily be surmised. At the first imposition of the tax, the average of three preceding years constitute a fair subject for assessment; but as the fourth year is really the year taxed, provision is made that it be not taxed in excess of its own gains. In this view, and for this occasion the section acts fairly to the trader who makes less than his previous average, but unfairly to the Exchequer in the case of the trader who makes more than his previous average, and who is not asked to pay upon the excess. Any motive, however, which may have recommended this section at the first imposition of an ephemeral tax becomes inapplicable when the tax is continuous; the section then becomes a source of detriment to the Exchequer, while its indulgence is extended, not to the whole of the industrial classes assessed under Schedule D, but to a portion only. Professional and salaried men, whose earnings are uniform and fixed, derive no advantage from this section, and of traders, those only gain by it who are already gainers, by having made in one year, by anticipation, more than their average profits:—

A., in 1861, makes	£1,000,	and pays	£37	10*s.*
1862 „	£1,000	„	£37	10*s.*
1863 „	£1,000	„	£37	10*s.*
B. made, in 1858,	£1,000			
„ 1859,	£1,000			
and in 1860,	£0,000			
B. makes, in 1861,	£1,000,	and pays	£37	10*s.*
„ 1862,	£2,000	„	£37	10*s.*
„ 1863,	£0,000	„	£0	0*s.*

but B., in 1863, so far from being less able than A. to pay income tax on his average profits, is better able; he makes in 1862 the profits of 1863, and the interest, at 5 per cent. upon the £1,000 untaxed of the profits of 1862, enables him to pay the tax of 1863 without any sacrifice, and to be, even then, better off than A., by £12 10*s.*, yet the 133rd section exempts him altogether.

The advantages granted by this section are, even among traders, available almost entirely for those who least need them; for those whose large capital and extensive engagements, particularly in foreign trade, enable them to bear, in fluctuating yearly profits, the results of wide variations of price in their articles of commerce. From a different cause, some important domestic manufactures may benefit by this section. It is notorious that London brewers, of the first class, endeavour to avoid varying the prices of their porter, lest they should interfere with its consumption. When malt and hops are dear, they brew at a diminished gain; sometimes at a loss; but they recover their average profits by the additional gain realised when malt and hops are cheap. A brewer, whose profits varied in the proportions stated by Mr. Pressly, might pay income tax on £25,000 a year, while he actually realised £40,000.

Your committee are of opinion, that it would be desirable

to abolish the partial and variable remissions effected in virtue of the 133rd section, concurrently with the adoption of a general but limited concession.

Mr. Hubbard, throughout his draft report, from which we have given the above extract, makes frequent allusion to the valuable evidence given by Mr. Cookson, who was considered by the committee as the representative of the views and interests of the general body of solicitors throughout this country; and at some future time we intend to give some extracts from this part of the report for the purpose of informing the profession of the materials which the committee had before it as to the feelings and wishes of the legal profession upon this subject.

Law Students' Journal.

LAW STUDENTS' DEBATING SOCIETY.

The following report has recently been issued to the members by the secretary:—

Gentlemen,—According to the rules the secretary should report upon the proceedings of the society at three periods of the year, but it has been customary to omit strict compliance in this particular, so far as regards the November quarter, in consequence of it being almost wholly occupied by the long vacation, and the doings of the society will now be chronicled from July last, when the annual report of the committee was made, which the editor of the *Solicitors' Journal* was kind enough to print in his widely circulating periodical.

The term "report" is regarded in its largest sense, so that the secretary and committee consider themselves privileged to remark upon all matters that have taken place, and this is done with an earnest desire to promote the welfare of the society.

At the annual meeting Mr. Edward Lawrence, jun., resigned the office of treasurer, intending shortly to proceed to China, and Mr. Winckworth not being desirous of re-election, it was resolved that the thanks of the society should be awarded to those gentlemen for their services.

The officers of the society where then elected for the ensuing year, viz.:—Treasurer, Mr. Bradford; Secretary, Mr. Wingate, re-elected; Committee, Mr. Green, Mr. Dowse, and Mr. Hills, re-elected, Mr. Peachey, and Mr. Hewitt. Mr. Jackson and Mr. Allen were chosen as auditors.

It will be remembered that the season was brought to a close by some of the members dining together, when in consequence of so many old friends flocking round us great cordiality and general satisfaction prevailed.

On the motion made by Mr. Jackson at the annual meeting as to the desirability of awarding a prize to any member of the society who should attain the highest honorary distinction at the examination in each term, no result was arrived at. The subject has been frequently before the society, and has obtained the nomenclature of "application of the surplus fund." It was again renewed at the first meeting in December, when a long discussion ensued, and the meeting, without voting that it was expedient to discontinue the mode hitherto adopted, passed a resolution to appoint a committee. Notice of motion was, however, immediately given to rescind the resolution, and a motion also stands on the paper for the appointment of the committee. It is to be earnestly hoped that the society will occupy as little time as possible in considering these adverse motions, seeing that if the committee agree to propose any definite scheme out of the many which have been suggested, their recommendation must come before the society for adoption or otherwise, and a discussion which verges on the acrimonious cannot tend to advance the prosperity of the society, which I am sure we all have so much at heart.

The following particulars show an increase in the attendance of members both in number, and the time and interest devoted to the affairs of the society, twenty-one new members having joined. The average number of members present in the eight meetings that have been held was over thirty, during which three legal and three jurisprudential questions were discussed. The consideration of two legal questions being adjourned—the last one to mark our sympathy with her Majesty at the loss she and the country had sustained in the lamented death of his Royal Highness the Prince Consort. Ten each evening is the average number of speakers, and on the six occasions that the votes were taken the number averaged fourteen. The debates have varied in length from two to three hours.

On the 3rd of December it was proposed to make an addition to rule xi., which was not considered necessary, as the debates are seldom prolonged by adjournment, and when that is the case those who are appointed to speak usually have notice officially or otherwise. The committee have reported upon and considered no less than twenty legal questions, from which the three monthly papers have been compiled, and have also been at much pains to select the questions of a jurisprudential nature, which seemed most suitable to be discussed by the society. The subject of members providing questions for discussion has been so often impressed upon the society, that I would now only direct attention to it, trusting that members will propose jurisprudential as well as legal questions in order to lighten the labours of the committee.

I would urge upon gentlemen the expediency and necessity of always signing their names to the list which lies on the table each Tuesday evening, so as to ensure the attendance being accurately noted, and those under three years standing who do not sign, render themselves liable to be considered as absentees.

The new regulation by which it is required that articled clerks, who have not taken degrees, shall pass a preliminary examination in general knowledge, and obtain a certificate at an intermediate examination of possessing satisfactory knowledge of the elementary works on the laws of England, renders the advantages afforded by this society more valuable than ever to those preparing for the profession. Although in our debates no important interests depend upon their issue the necessity is created for giving questions mature consideration, so that the judgment formed may not only be supported with arguments in their favour, but may be protected from assault from those taking different sides. It is necessary with us, as in courts of decision to put our ideas in such a manner that will carry waiverers with us, and will disarm the attack of those whose duty it may be to advocate opposite views. Volunteers can only acquire efficiency in the strategic branch of their duties by practising in sham fights, and so in our debates the spirit of emulation is aroused, and those who can maintain it with most power and success are, without being aware of it, doing all that a professor could do to instruct and improve those who are about him. A young student has generally less difficulty in acquiring information than in overcoming nervous diffidence. The practice of meeting and joining in the debates of this society will be found most serviceable in this respect, and if properly followed with a fair amount of perseverance and attention must result in establishing a good groundwork for a professional man.—I remain, Gentlemen, your very obedient servant,

GEORGE L. WINGATE, Secretary.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY, 1861-62.

Mr. WILLIAM MURRAY, on Common Law and Mercantile Law, Monday, January 13.

Mr. THOMAS HENRY HADDAN on Equity, Friday January 17.

Court Papers.

Order in Chancery.

DEPOSITS ON EXAMINATION OF WITNESSES.

1st JANUARY, 1862.

The Right Honourable Richard, Baron Westbury, Lord High Chancellor of Great Britain, by and with the advice and assistance of the Right Honourable Sir John Romilly, Master of the Rolls; The Honourable the Vice-Chancellor Sir John Stuart; and The Honourable the Vice-Chancellor Sir William Page Wood; doth hereby, in pursuance and execution of the powers given by the statute 15 & 16 Vict. cap. 86, and of all other powers and authorities enabling him in that behalf, order and direct in manner following:—

Every party in a cause or matter who is desirous of having an oral examination of a witness or witnesses before one of the examiners of the Court shall, at the time when he obtains an appointment for the purpose of having such examination taken, deposit with the clerk of the examiner, the sum of £3; and in case such party shall fail to attend and duly proceed with the examination of his witness or witnesses at the time appointed for the examination, unless prevented by death, illness, or unavoidable accident, the examiner shall direct the

sum so deposited to be paid to the opposite party attending such appointment; and where the appointment shall have been duly attended, or where the examination cannot be proceeded with in consequence of death, illness, or unavoidable accident, the sum so deposited shall be returned to the party who deposited the same; but in those cases where there is no opposite party, or the opposite party shall fail to attend such appointment, then the respective clerks of the examiners shall once in every six months pay into the Bank of England, into the name of the Accountant-General of this Court, to the credit of the Suitors' Fee Fund Account, the sum so deposited and remaining in the hands of such clerks respectively, in consequence of the appointments not having been duly attended; the amount of the sums so deposited and paid by such clerks as aforesaid, to be verified by affidavit.

This order shall come into operation on the 1st day of February, 1862.

(Signed) WESTBURY, C.
JOHN ROMILLY, M. R.
JOHN STUART, V.C.
W. P. WOOD, V.C.

Court of Probate
AND
Court for Divorce and Matrimonial Causes.

SITTINGS IN AND AFTER HILARY TERM, 1862.

Probate causes without juries—Wednesday, January 15th; Thursday, 16th; Friday, 17th, Saturday, 18th.

Full Court for Divorce and Matrimonial Causes—Wednesday, January 22nd.

Divorce causes without juries—Thursday, January 23rd; Friday, 24th; Saturday, 25th; Wednesday, 29th; Thursday, 30th; Friday, 31st; Saturday, February 1st; Wednesday, 5th; Thursday, 6th; Friday, 7th; Saturday, 8th; Wednesday, 12th; Thursday, 13th; Friday, 14th; Saturday, 15th.

Probate causes with juries—Wednesday, February 19th; Thursday, 20th; Friday, 21st; Saturday, 22nd.

Divorce causes with juries will be taken after the Probate causes with juries have been heard, and until Saturday, March the 29th inclusive, with the exception of Mondays and Tuesdays.

The judge will sit in chambers at eleven o'clock, and in court to hear motions at twelve o'clock, on Tuesday, January 14th, and every succeeding Tuesday until further notice.

N.B.—Papers for motions are to be left with the Clerk of the Papers before two o'clock on Thursdays.

Queen's Bench.

Sittings at Nisi Prius, in Middlesex and London, before the Right Honourable Sir ALEXANDER EDMUND COCKBURN, Bart., Lord Chief Justice of Her Majesty's Court of Queen's Bench, in and after Hilary Term, 1861.

IN TERM.

Middlesex.		London.	
1st sitting .... Monday	Jan. 13	1st sitting .... Friday	Jan. 17
2nd sitting .... Monday	Jan. 20	2nd sitting .... Friday	Jan. 24
3rd sitting .... Monday	Jan. 27		

For undefended causes only.

AFTER TERM.

Middlesex.		London.	
Saturday	Feb. 1	Thursday	Feb. 13

The Court will sit at ten o'clock every day.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Births, Marriages, and Deaths

BIRTHS.

BULLOCK—On Jan. 2, at 4, Gloucester-terrace, Hyde-park, the wife of Edward Bullock, Esq., Barrister-at-Law, of a daughter.

COCKLE—On Jan. 4, at 13, Maida-hill, the wife of James Cockle, Esq., of the Middle Temple, Barrister-at-Law, of a daughter.

JACOBS—On Nov. 24, at King William's-town, the wife of Simeon Jacobs, Esq., Her Majesty's Attorney-General for British Kaffraria, of a son.

PELLEREAU—On Nov. 14, at Port Louis, Mauritius, the wife of Etienne Pellereau, Esq., Barrister-at-Law, of a son.

PRENTICE—On Jan. 8, at 50, Doughty-street, the wife of Samuel Prentice, Esq., of the Middle Temple, of a daughter.

THOMPSON—On Jan. 6, at Bridgefoot House, Iver, Bucks, the wife of Springall Thompson, Esq., Barrister-at-Law, of a son.

TROLLOPE—On Jan. 6, at Berrylands, Surbiton, the wife of W. M. Trollope, Esq., of Westminster, Solicitor, of a daughter.

STUCKEY—On Jan. 2, the wife of Wilson A. Stuckey, Esq., Solicitor, Brighton, of a son.

MARRIAGE.

CURWEN—HILLS—On Jan. 2, the Rev. Alfred F. Curwen to Beatrice Cervinia, daughter of the late John Hills, Esq., of the Inner Temple.

DEATHS.

GABRIEL—On Jan. 6, James A. Gabriel, Esq., of 7, Lincoln's-inn-fields aged 42.

MAY—On Jan. 7, Thomas May, Esq., Solicitor, of 2, Middle Temple-lane, aged 56.

OKE—On Jan. 4, Emily, the daughter of George C. Oke, Esq., of the Mansion House, aged 15.

PARTINGTON—On Jan. 3, at Egerton Lodge, Fallowfield, near Manchester, aged one year, Thomas Crallan, son of William Henry Partington, Esq., Solicitor, of that city.

SWAYNE—On Jan. 2, at The Island, Wilton, Mary Sophia, wife of John Swayne, Esq., Clerk of the Peace for Wilts, in the 84th year of her age.

THOMAS—On Dec 30, at Bristol, William Joseph Thomas, Esq., Solicitor, Hay, Breconshire.

WILSON—On Dec. 31, John Wilson, Esq., of Gray's-inn, Barrister-at-Law, aged 64.

London Gazettes.

Professional Partnerships Dissolved.

FRIDAY, Jan. 3, 1862.

Edwards, Francis, & George William Nalder, Bank-court, Bristol, Attornies and Solicitors (Edwards & Nalder). Dec 10. By mutual consent.

Smith, Sidney, sen., & Sidney Smith, jun., 6 Barnard's-inn, London Attorneys and Solicitors (S. Smith & Son). Dec 31.

TUESDAY, Jan. 7, 1862.

Clarke, Samuel Thomas, & George Edward Mead, Attorneys and Solicitors, 30 Bury-st, Westminster (Clarke & Mead). Dec 31. By effluxion of time.

Philcox, James, sen., John Baldock, & James Philcox, jun., Attorneys and Solicitors, Burwash, Sussex (Philcox, Baldock, & Philcox). June 24. By mutual consent so far as regards John Baldock.

Sparham, Henry Mills, & William Vant, Attorneys and Solicitors, 10 Basinghall-st, London (Sparham & Vant). Dec. 19. By mutual consent.

Winding-up of Joint Stock Companies.

FRIDAY, Jan. 3, 1862.

LIMITED IN BANKRUPTCY.

Crystal Palace Printing and Publishing Company (Limited).—Order to wind up, Dec. 5; same day Hatton Hamer Stansfeld was appointed Official Liquidator. Creditors to prove their debts on Jan. 29, at 2.30, before Commissioner Fonblanque. At the said sitting the Court will proceed to settle the list of contributories.

Law Newspaper Company (Limited).—Petition for winding up, presented Jan. 1, will be heard before Commissioner Goulburn, on Jan. 20. Sols Linklaters & Hackwood, Solicitors for Petitioner, 7 Walbrook.

Swedish Steel Iron Company (Limited).—Order to wind up, Dec. 13. Basinghall-st.

West Cliff Hotel Company (Limited).—Petition for winding up, presented Dec. 21, will be heard before Commissioner Holroyd, on Jan. 16, at 12. Sols Linklaters & Hackwood, Solicitors for Petitioner, 7 Walbrook.

TUESDAY, Jan. 7, 1862.

UNLIMITED IN CHANCERY.

English Widows Fund and General Life Assurance Association.—Petition for winding up, presented Dec. 21, will be heard before Vice-Chancellor Wood, on Jan. 18. Charles Wellborne, Solicitor for Petitioner, 17 Duke-st, Southwark.

India and London Life Assurance Company.—Petition for winding up, presented Jan. 1, will be heard before Vice-Chancellor Kinderslev, on Jan. 17. Upton, Johnson, & Upton, Solicitors for Petitioners, 20 Austinfriars, London.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, Jan. 3, 1862.

Beasley, William John, Torquay, Wine Merchant. Jan 31. Sol Eastley & Paington.

Bennett, Joseph, Esq., late of 18 Duke-st, Westminster, Middlesex, and 4, Robert-st, Adelphi. Feb 6. Sols W. & W. A. Waller, 27 King-st, Cheapside.

Goude, Henry Cooper, Leamington Priors. Feb 1. Sols Nicholl, Burnett, & Newman, 18 Carey-st, Lincoln's-inn.

Jellis, Joseph, Winwick, Huntingdonshire, Farmer. March 31. Sols Edmonds & Pooley, Oundle.

Keighley, Robert Poppleton, formerly of Kingston-upon-Hull, but late of 12 Little Tower-st, London, and of Lee, Kent, Merchant. Feb 10. Sols Thomas & Hollams, Mincing-lane.

Lea, Henry, Coventry, Attorney-at-Law. March 6. Sols Austen & De Gex, 4 Raymond's-building's, Gray's-inn.

Lea, Thomas Owen, Foleshill-rd, near Coventry, Gent. March 13. Sols Austen & De Gex, 4, Raymond's-bldgs, Gray's-inn.

Linton, John Henry, formerly of the Stock Exchange, and of Streatham, Surrey, and late of Wallace-lodge, Upper Tooting, Esq. March 1. Sols Lindsay & Mason, 84 Basinghall-st, London.

McMahon, William John, formerly of Quorndon, Leicestershire, after-

wards of 7 Berkeley-cres, Gravesend, Kent, and late of Northampton-Esq. Feb 17. Sol Irwin, 6 Gray's-inn-sq.

Pitt, Elizabeth, Crickett Malherbie, Somersetshire, Widow. Feb 10. Sols Gregory, Skirrow, & Rowcliffes, 1 Bedford-row.

Richardson, John, Batley Carr, Dewsbury, Yorkshire, Manufacturer. Jan 30. Sols Scholefield & Oldroyd, Wellington-rd, Dewsbury.

Robertson, Catherine, 4 Bayham-cottages, Camden-town, Middlesex, Spinster. Jan 30. Sols Fyson, Tathams, Curling, & Walls, 3 Frederick's-pl, Old Jewry.

Smith, Thomas, formerly of Foston, but late of Great Driffield, Yorkshire, Common Brewer. March 1. Sols Foster & Tonge, Great Driffield.

TUESDAY, Jan. 7, 1862.

Broadwood, Thomas, Holmbush, near Crawley, Sussex, and 17 Cadogan-pl, Belgrave-sq, Middlesex, Esq. Feb 1. Sols Edwards, 3 Lawrence-Pountney-hill, London, and Stedman, Horsham.

Clarke, Charles, Maldon, Essex, Innkeeper. Feb 22. Sols Digby & Son, 90 Chancery-lane, London, and Maldon, Essex.

Crofts, Francis, Sandiacre, Derbyshire, Labourer. Feb 10. Sol Cutts, Chesterfield.

Folkard, Anthony, 66 Cow-cross-st, Turnmill-st, Clerkenwell, Middlesex, Licensed Victualler. Feb 20. Sol Bryan, 2 Barnard's-inn, Holborn, London.

Pearson, William, Swainby, Whorlton, North Riding, Yorkshire. March 31. Sol Glaister.

Todd, Anthony Maddison, 1 Tenterden-st, Hanover-sq, Middlesex, and 28 Clement's-lane, Lombard-st, London, Wine Merchant. March 8. Sol Carlyon, St. Austell, Cornwall.

Watts, Benjamin, 49 Brompton-crescent, Brompton, Middlesex, Gent. March 1. Sols Fraser & May, 78 Dean-st, Soho, Middlesex.

Assignments for Benefit of Creditors.

FRIDAY, Jan. 3, 1862.

Bland, John Humphrey, Leeds, Cabinet Maker. Dec 9. Sol Bulmer, Leeds.

Thompson, George, Walsall, Grocer. Dec 11. Sols Southall & Nelson, Birmingham.

Whittaker, George, Moss Shaw Farm, Radcliffe, Lancashire, Farmer. Dec 12. Sols Green & Payne, 5 St. James's-sq, Manchester.

TUESDAY, Jan. 7, 1862.

Ashton, John, Meadow-st, Sheffield, Grocer. Dec 13. Sol Fretson, Sheffield.

Chapell, James Loveless, William-st, Morice-town, Devonport, Druggist and Surgeon-Dentist. Dec 30. Sol Edmonds, 8 Parade, Plymouth.

Wright, Edwin, 28 West-hill-st, Brighton, and 64 West-st, Brighton, Bath Proprietor. Jan 2. Sols Woods & Dempster, 64 Ship-st, Brighton.

Deeds registered pursuant to Bankruptcy Act, 1861.

FRIDAY, Jan. 3, 1862.

Andrews, William, Canton, Glamorganshire, Brewer. Dec 3. Assignment. Reg Dec 30.

Barrett, George, 247 Tottenham-ct-rd, Middlesex, Ironfounder. Dec 28. Assignment. Reg Jan 1.

Baxter, Edward, 26 Crosby-row, Walworth-rd, Surrey, Greengrocer. Dec 2. Assignment. Reg Dec 30.

Bland, John Humphrey, Leeds, Cabinet Maker. Dec 9. Assignment. Reg Jan 2.

Bramwell, Daniel Kelland, Norwich, Bookseller. Dec 10, Assignment. Reg Jan 2.

Bull, William, Gloucester-ter, Brompton, Middlesex, and Hereford-sq, Brompton, Butcher. Dec 7. Assignment. Reg Jan 2.

Chandler, Kenelm, jun., 10 Blomfield-ter, Harrow-rd, Paddington, Middlesex, Builder. Dec 3. Assignment. Reg Dec 31.

Clarke, William, Norwood, Surrey, Draper. Dec 5. Composition. Reg Jan 1.

Durrant, Jonathan, Beckley, Sussex, Farmer. Dec 3. Assignment. Reg Dec 28.

Eves, Thomas Henry, Moor-st, Birmingham, Last and Boot Tree Maker. Dec 6. Composition. Reg Dec 31.

Gibson, Thomas, & Adam Palmer, Lynn-st, West Hartlepool, Painters and Glaziers. Nov 30. Composition. Reg Dec 31.

Harrison, William, Eckington, Derby, Nail, Scythe, Strickle, and Snaith Manufacturer. Dec 11. Assignment. Reg Jan 2.

Higgins, William, Ludgershall, Wilts, Draper and Grocer. Dec 20. Assignment. Reg Dec 30.

Kent, Edward, Three Colt-lane, Cambridge-rd, Bethnal-green, Middlesex. Timber Merchant. Dec 12. Composition. Reg Dec 30.

Martin, William, Ayton, near Pocklington, Yorkshire, Farmer. Dec 19. Composition. Reg Dec 30.

Mowbray, Richard Butler, Waterloo-st, Oldham, Engineer. Dec 10. Assignment. Reg Jan 2.

Ormerod, John, Accrington, Lancashire, Draper. Nov 30. Composition. Reg Jan 1.

Prosser, George, Monmouth, Timber Merchant. Dec 3. Conveyance. Reg Dec 31.

Rawson, Charles, Sheffield, Surveyor. Dec 6. Assignment, Reg Jan 2.

Rodgers, Henry Abdiel, Sheffield, Bookseller. Dec 11. Composition. Reg Dec 30.

Thompson, George, Walsall, Grocer. Dec 11. Assignment. Reg Jan 2

TUESDAY, Jan. 7, 1862.

Arnott, George Cowper, & Charles Cowper Arnott, St. Paul's-church-yd, London, Silk Mercers. Jan 3. Composition. Reg Jan 7.

Bowman, Charles, 70 Wynyatt-st, Goswell-st, Middlesex, Gold Chain Maker and Jeweller. Dec 28. Assignment. Reg Jan 4.

Bramley, Henry, Oldham, Stationer. Dec 6. Assignment. Reg Jan 3.

Bryan, Alexander Menzies, & Charles Fryer, 13 Little Tower-st, London. Colonial Brokers. Dec 27. Assignment. Reg Jan 6.

Busby, James, Stockton-on-Tees, Durham, Grocer. Dec 10. Assignment. Reg Jan 4.

Cattle, John, York, Furniture Broker. Dec 18. Assignment. Reg Jan 4.

Collyer, Augustus Toplady, Wellington-st, Luton, Beds, Straw Hat Manufacturer. Dec 19. Assignment. Reg Jan 3.

Emblem, Henry Mumm, 7 Bedford-pl, Commercial-rd East, Middlesex, Corn Chandler. Dec 4. Composition. Reg Jan 1.

Evans, Thomas, Brittonferry, near Neath, Glamorganshire, Grocer. Dec 28. Assignment. Reg Jan 4.

Fentem, George, St. Mary-st, Southampton, Grocer. Dec 4. Assignment. Reg Dec 30.

Gillispie, Hugh, Merthyr Tydfil, Glamorganshire, Draper. Dec 14. Composition. Reg Jan 6.

Gregory, Mary, Sheffield Widow. Dec 7. Composition. Reg Jan 3.

Innes, Thomas, Sonning, Berks, Builder. Dec 21. Assignment. Reg Jan 6.

Mosley, Charles Dransfield, Cleckheaton, near Leeds, Card Maker. Dec 30. Composition. Reg Jan 3.

Rowlands, Thomas, London House, Llangollen, Denbighshire, Dealer in Glass and Grocer. Dec 9. Assignment. Reg Jan 4.

Sands, Richard, Garden-st, Old Brompton, Gillingham, Kent, Painter Plumber, and Glazier. Dec 11. Assignment. Reg. Jan 2.

Saul, Stephen, jun., 18 Long-row, Nottingham, Smallware Dealer. Dec 17. Assignment. Reg Jan 4.

Savory, Robert, Hereford, Plumber. Dec 12. Assignment. Reg Jan 6.

Thomas, George, & William Maddox, Hereford, Cabinet Maker. Dec 17. Assignment. Reg Jan 5.

Walter, John Thomas, Caledonian-rd, Middlesex, Cheesemonger. Dec 23. Composition. Reg Jan 3.

Welch, George, Codicote, Herts, Miller and Farmer. Dec 12. Assignment. Reg Jan 3.

Wheeler, George, West Cowes, Isle of Wight. Dec 17. Assignment. Reg Jan 4.

Bankrupts.

FRIDAY, Jan. 3, 1862.

Allcock, Mary, 9 Dorrington-st, Hulme, Widow. Dec 18. Manchester, Jan 16. Sol Swan, Manchester.

Barker, William, Wokingham, Berkshire, Foreman to a Builder. Pet. Dec 30. London, Jan 15. Sol Marshall, Hatton-garden.

Bedson, Thomas, 5 Montpelier-st, Princes-st, Camberwell, Surrey, Manufacturer of Indorsing Apparatus. Pet Dec 30. London, Jan 14. Sols Smith & Webb, 11 Austinfriars.

Blake, Benjamin, Blenheim Lodge, Brighton-rd, Surbiton, near Kingston, Riding Master, Pet Dec 31. London, Jan 15. Sol Binns, 1 Trinity-sq, Borough.

Blanchard, Thomas, Piccadilly, Manchester, Glass Dealer. Pet Dec 31. Manchester, Jan 14. Sols, Heath & Sons, Manchester.

Buckingham, John, Stoke Climsland, Cornwall, Licensed Victualler. Pet Dec 30. East Stonehouse, Jan 15. Sol Gidley, Plymouth.

Caldecott, John, Chester, Hatter. Pet Dec 30. Liverpool, Jan 15. Sols Evans, Son, & Sandys, Liverpool.

Church, Joseph, Shonks Farm, Harlow, Essex, Farmer, Pet Dec 9. London, Jan 14. Sol Kent, Cannon-st, London.

Cobbold, Thomas, 1 Richmond-st, Brighton, Watch and Clock Maker. Pet Dec 30. Brighton, Jan 20. Sol Goodman, Brighton.

Cocks, George Wilder, Poole, Dorsetshire, and Melbourne-st, Southampton, Plumber. Pet Dec 31. London, Jan 21. Sol Mackay, Southampton.

Cook, Henry Polley, High-st, Romford, Essex, Coach Builder. Pet Dec 28. London, Jan 16. Sols Roscoe & Hincks, 14 King-st, Finsbury-square.

Cooper, Henry Charles, 22 Salisbury-st, Strand, Middlesex, Violinist and Musical Conducter. Pet Dec 31. London, Jan 15. Sol Wells, Moorgate-st.

Cotton, Benjamin, 5 Wapping Wall, St Paul's, Shadwell, Middlesex, Licensed Victualler. Pet Dec 31 (in formâ pauperis). London, Jan 15.

Cotton, James, Colne, Wiltshire, Innkeeper. Pet Dec 21. London, Jan 14.

Crane, William, 10 Marion-st, Hackney-rd, Middlesex, Shoemaker. Pet Dec 28. London, Jan 16. Sols Ody & Paddison, 3 New Boswell-ct.

Cropp, Alfred Shipton, 63 High-st, Southampton, Engraver. Pet Dec. 31. London, Jan 16. Sol Mackey, Southampton.

Cross, Mark, 6 Meadow-st, Sheffield, Butcher. Pet Dec 30. Sheffield, Jan 22. Sol Broadbent, Sheffield.

Darch, Henry. Pet Dec 28. Bideford, Jan 15. Sol Bencraft, Barnstaple.

Dawson, Robert, Irish Gate Brow, Carlisle, Innkeeper. Pet Dec 24. Carlisle, Jan 13. Sol Wannop, Carlisle.

Daynes, James Enoch Sadler, Norwich, Horse Hair Manufacturer. Pet Dec 31. Norwich, Jan 13. Sol Rackham, Norwich.

Dean, Stephen Hills, Platts-heath, Lenham, Kent, Farm Labourer. Pet Dec 31. Maidstone, Jan 18. Sol Goodwin, Maidstone.

Dixon, William, Shotley-bridge, Durham, Licensed Victualler. Pet Dec 24. Newcastle-upon-Tyne, Jan 15. Sol Hoyle, Newcastle-upon-Tyne.

Ell, James, 16 Copenhagen-street, Islington, Middlesex, Baker. Pet Jan 2. London, Jan 17. Sol Reed, 1 Guildhall-chambers.

Ellis, George, Stalybridge, Cheshire, Grocer. Pet Dec 31. Ashton-under-Lyne, Jan 23. Sols Brooks, Marshall, & Brooks, Ashton-under-Lyne.

Felsted, Henry, Standon, Herts. Pet Dec 19. Hertford, Jan 14. Sol Foster, Hertford.

Flint, Samuel Ballard, Great Driffield, Yorkshire, General Dealer. Pet Dec 31. Great Driffield, Jan 14. Sol Hodgson, Great Driffield.

Freedman, Solomon, Canton, near Cardiff, Pawnbroker. Pet Dec 31. Cardiff, Jan 20. Sol Ensor, Cardiff.

George, Henry, Newport, Monmouthshire. Dec 18. Newport, Jan 15.

Goldstandt, Adolph, 24, Trafalgar-sq, New Peckham, Surrey, Commission Agent. Pet Dec 24. London, Jan 17. Sol Pook, 27, Basinghall-st.

Goodwin, William, 6, Butcher-row, Coventry, Straw Hat Manufacturer. Pet Dec 27. Coventry, Jan 20. Sol Griffin, Leamington.

Gordon, Alexander, 3 Middle Scotland-yard, Whitehall, Middlesex, Civil Engineer. Pet Dec 30. London, Jan 14. Sol Hussey, Great Knight Rider-street.

Grant, Joseph Thomas, Shrewton and Stapleford, Wilts, Carpenter. Pet Dec 31. Salisbury, Jan 14. Sol Hill, Salisbury.

Grattan, William, 9 Cross-st, Sloane-st, Chelsea, Middlesex, Journeyman Boot and Shoe Maker. Pet Dec 31. London, Jan 15. Sol Cooper, 2 Charing-cross.

Gritten, Alfred Edward, 30 Gerrard-st, Soho, Middlesex, Picture Dealer. Pet Dec 28. London, Jan 16. Sols Harrison & Lewis, 6 Old Jewry.

Harper, John, Dudley, Licensed Victualler. Pet Dec 30. Birmingham, Jan 24. Sol Maltby, Dudley.

Haymann, Moritz, 2 Colchester-ter, Stratford, Essex, Dealer in Fancy Goods. Pet Jan 1. London, Jan 14. Sols Speyer & Son, 6 Broad-st-bldgs.

Holtham, Joseph, Swansea, Glamorganshire, Builder. Pet Dec 31. Bristol, Jan 17. Sol Harris, Bristol.

Howard, Daniel, 56 Francis-st, Battersea, Surrey, Beershop Keeper. Pet Dec 30. London, Jan 14. Sol Allen, 64 Chancery-lane.

Huggan, Thomas, Bradford, Bootmaker. Pet Dec 31. Leeds, Jan 16. Sols Lees, Bradford, and Bond & Barwick, Leeds.

Hunt, Vere Dawson, 9 Strannaer-pl, Maida-vale, Middlesex, Dealer in Horses. Pet Jan 1 (in formâ pauperis). London, Jan 17. Sol Parkes, 11 Beaufort-bldgs, Strand.

Jones, Thomas, 45 Monkwell-st, Cripplegate, London, Cap Front Manufacturer. Pet Dec 31. London, Jan 15. Sols Peck & Downing, 10 Basinghall-st.

Keighley, Edwin Holmes, 2 York-ter, Wharf-rd, King's-cross, Islington, Middlesex, Lighterman. Pet Dec 30 (in formâ pauperis). Jan 16. Sol Holt, Quality-ct, Chancery-lane.

Kilby, George, Upper Heyford, Oxfordshire, Blacksmith. Pet. Bicester, Jan 14. Sol Peagam, Bicester.

King, Thomas Beckensale, sen., Royal-ter, Northampton, Commercial Traveller. Pet Jan 1. London, Jan 21. Sol Davis, 28 Poultry.

Knott, Robert Rowe, 1 New-inn, Strand, Middlesex, Clerk. Pet Jan 2. London, Jan 16. Sol Pook, 27 Basinghall-st.

Larkman, James, Besthorpe, Norfolk, Blacksmith. Pet Jan 1. Attleborough, Jan 16. Sol Diss, Garrod.

Lesson, John Cooper, 26 Wilmot-st, Russell-sq, Middlesex, Working Engineer. Pet Jan 1 (in formâ pauperis). London, Jan 21. Sol Holt, Quality-ct, Chancery-lane.

Liddelow, Robert, St. Andrew's-hill, Norwich, Carpenter. Pet Dec 31. London, Jan 14. Sol Pearse, 40 Broad-st-bldgs, Agent for Culley, Norwich.

Makey, Richard, 1 Providence-row, Old Ford, Bow, Middlesex, Grocer. Pet Jan 1. London, Jan 16. Sol King, 83 Fenchurch-st.

Mansell, Edward, & George Augustus Elliott, 13a Belgrave-sq, Middlesex, and 16 Cornhill, Auctioneers and Surveyors. Pet Dec 31. London, Jan 15. Sol Lawrance, Plews, & Boyer, 14 Old Jewry-chambers.

M'Hale, John, Bacup, Lancashire. Dec 19. Bacup, Jan 14.

Mercer, George Thomas, 5 William-st, Hampstead-rd, Middlesex. Pet Dec 24 (in formâ pauperis). London, Jan 17.

Middlewood, William, Stretford, Lancashire, Joiner and Builder. Pet Dec 30. Manchester, Jan 13. Sols Crowther & Farrington, Manchester.

Moore, James, 22 Clement-st, Birmingham, Glass Cutter. Pet Jan 1. Birmingham, Jan 24. Sol Allen, Birmingham.

Morris, William Edgar, Wellington-rd, Dudley, Railway Clerk. Pet Dec 27. Worcester, Jan 13. Sol Corles, Worcester.

Newby, Thomas Tipson, 2 Albert-ter, Camden Town, Middlesex, Commercial Traveller. Pet Dec 30 (in formâ pauperis). London, Jan 15.

Osborne, George, 290 Shales Moor, Sheffield, Boot and Shoe Maker. Pet Dec 31. Sheffield, Jan 22. Sol Broadbent, Sheffield.

Ottewill, Thomas, 23 and 24 Charlotte-ter, Barnsbury-rd, Islington, Middlesex, Photographic Apparatus Manufacturer. Pet Dec 31. London, Jan 15. Sol White, Southampton-st.

Parker, Thomas. Pet Dec 31. Sleaford, Jan 14. Sols Brown & Son, Lincoln.

Parkin, Richard, Attercliffe, Sheffield, Herring Dealer. Pet Dec 30. Sheffield, Jan 22. Sol Binney, Sheffield.

Peace, Luke, 49 Portland-st, Walworth, Surrey, Shoe Manufacturer. Pet Jan 1. London, Jan 16. Sol Chidley, 20 Old Jewry.

Plews, Matthew, Cannister House, Hampstead, Middlesex, Auctioneer. Pet Jan 2. London, Jan 14. Sols J. & J. H. Linklaters & Hackwood, 7 Walbrook, London.

Poll, William, Old Catton, Norfolk, Innkeeper. Pet Dec 31. Norwich, Jan 13. Sol Sadd, jun, Norwich.

Roberts, Thomas, New Dock, Llanelly, Carmarthenshire, Ship Chandler and Potato Dealer. Pet Dec 30. Bristol, Jan 14. Sols Abbott, Lucas, & Leonard, Albion-chambers, Bristol.

Russen, George, Croydon, Surrey, Carrier. Pet Dec 31. London, Jan 15. Sol Stocken, 61, Cornhill.

Searson, Edward, Ripley, Derbyshire. Pet Dec 31. Nottingham, Jan 14. Sols Walker, Belper, and James & Knight, Birmingham.

Selpp, John Charles, 2 Lincoln-st, Mile End, Middlesex, and 14, Broad-st-bldgs, London, Mining Agent. Pet Dec 31. London, Jan 14. Sol Moss, 23, Moorgate-st.

Shaw, Joseph, Rakeway, Cheadle, Staffordshire, Farmer. Pet Jan 1. Cheadle, Jan 16. Sol Thacker, Cheadle.

Sheldon, Joseph, Fawler, Oxfordshire. Superintendent of an Iron-stone Quarry. Pet Jan 1. Chipping Norton, Jan 16. Sol Thompson, Oxford.

Silla, Charles, Uxbridge, Middlesex, Horse Dealer. Pet Dec 31 (in formâ pauperis). London, Jan 17.

Skinner, Sarah, 1 North Bridge, Exeter, Provision Dealer, Pet Dec 31 (in formâ pauperis). Exeter, Jan 15. Sol Flood, Exeter.

Smith, Frederick, 31 George-st, Oxford, Carver and Gilder. Pet Jan 1. Oxford, Jan 27. Sol Williams, Oxford.

Steele, William, Sneyds Croft, Burslem, Staffordshire, Potters' Warehouseman. Pet Dec 31. Hanley, Jan 14. Sol Tomkinson, Burslem.

Szlumper, Albert, 23 Bridge-st, Birkenhead, Tailor. Pet Dec 30. Birkenhead, Jan 30. Sol Rymer, Liverpool.

Townshend, Charles Edward, Heigham-road, Heigham, Norwich, Grocer. Pet Dec 27. Norwich, Jan 13. Sol Sadd, jun., Norwich.

Turner, William, 164 Pond-st, Sheffield, Grocer. Pet Dec 31. Sheffield, Jan 22. Sol Broadbent, Sheffield.

Vyvyan, William Courtenay, late of 33 Dorset-pl, Dorset-sq, Middlesex, late an Ensign in Her Majesty's 4th Foot. Pet Jan 1. London, Jan 23. Sols Emmett & Son, 14 Bloomsbury-sq.

Weston, James, Apperley, Gloucestershire, Timber Dealer. Pet Dec 31. Tewkesbury, Jan 20. Sol Cooke, Gloucester.

Whittaker, John, Countess-lane, Radcliffe, near Manchester, Farmer. Pet Dec 31. Manchester, Jan 20. Sol Swan, Manchester.

Williams, Henry, Salisbury, Confectioner. Pet Dec 30. London, Jan 16. Sols Sole, Turner, & Turner, 68 Aldermanbury.

Withers, James, Hunters-lane, Birmingham, Commission Agent. Pet Jan 1. Birmingham, Jan 24.

TUESDAY, Jan. 7, 1862.

Anderson, George, 7 Northampton-pl, Canonbury, Middlesex, Ship Broker. Pet Jan 1. London, Jan 21. Sol Richardson, 15 Old Jewry-chambers.

Baldwin, Henry James, Maney, Sutton Coldfield, Warwickshire, Commercial Traveller. Pet Jan 4. Birmingham, Jan 20. Sols Foster and Suckling, Birmingham.

Banks, Alfred, 2 Vernon-ter, Portobello-road, Kensington-park, Nottinghill, Middlesex, Saddler and Harness Maker. Pet Jan 3. London, Jan 23. Sol Hall, 49a Lincoln-inn-fields.

Barlow, William, Stanley Moss, Stoke-upon-Trent, Poulterer. Pet Jan 4. Hanley, Jan 18. Sol Tennant.

Barrett, John Sessions, & Ferbard Sessions Barrett, Kingston-Bagpuize, Berkshire, Surgeons and Apothecaries. Pet Jan 3. London, Jan 23. Sols Harrison & Lewis, 6 Old Jewry.

Black, James, 43, Luard-st, Caledonian-road, Islington. Pet Dec 28 (in formâ pauperis). London, Jan 23.

Bonest, Robert Thomas, 5 Blenheim-sq, Bristol. Pet Jan 1. Bristol, Jan 17. Sol Clifton, Bristol.

Bowen, Daniel, Meyrick-st, Pembroke-dock, Pembroke, Lodging-house Keeper. Pet Jan 3. Pembroke, Jan 20. Sol Parry, Pembroke.

Braham, Mark, Liverpool, Victualler. Pet Jan 6. Liverpool, Jan 20. Sol Cotton, Liverpool.

Bryan, Thomas, Liverpool, Hatter. Pet Jan 4. Liverpool. Sol Williams, Liverpool.

Bye, Charles, Dullingham, Cambridgeshire, Butcher. Pet Jan 3. Newmarket, Jan 21. Sol York, Newmarket.

Ceney, Robert, Tipton, Staffordshire, Brewer. Pet Jan 2. Birmingham, Jan 20. Sols Beaton, Birmingham, and Smith, Walsall.

Charlton, Michael, Stanley Arms Hotel, Seacombe, Cheshire, Licensed Victualler. Pet Jan 6. Liverpool, Jan 20. Sol Rymer, Liverpool.

Clayton, Thomas, Huddersfield, Auctioneer. Pet Dec 31. Huddersfield Jan 30. Sol Leadbeatter, Huddersfield.

Cotton, James, Colne, Wiltshire, Innkeeper. Dec 21. London, Jan 14.

Cummins, George Waterhouse, Coalpit-lane, Nottingham, Tripe Dresser. Pet Jan 3. Nottingham, Feb 5. Sol Ashwell, Nottingham.

Dawkins, George, Broughton, Northamptonshire, Builder. Pet Jan 3. Kettering, Jan 17. Sol White, Northampton.

Dicken, George, King-st, Derby, Dentist and Druggist. Pet Jan 2. Derby, Jan 17. Sol Borough, Derby.

Downton, Abraham, & George Satchwell, New-inn-yd, Old Bailey, London, Provision Merchants. Pet Jan 4. London, Jan 21. Sols Lawrance, Plews, & Boyer, 14 Old Jewry-chambers.

Dymond, William, 4 Phœnix-st, East Stonehouse, Baker and Confectioner. Pet Jan 4. East Stonehouse, Jan 22. Sols Edmonds & Sons, Plymouth.

Evans, Jesse, Great Eastern Inn, Llanstadwell, Pembrokeshire, Licensed Victualler. Pet Dec 26. Haverfordwest, Jan 21. Sol Parry, Haverfordwest.

Faulkner, Thomas John, 14 Oxford-st, Manchester, Surgeon-Dentist. Pet Jan 2. Manchester, Jan 23. Sol Swan, Manchester.

Fluester, John, 125 Westbourne-park-rd, Paddington, Middlesex, Stone and Cemetery Mason. Pet Jan 3. London, Jan 23. Sol Herring, Stafford-st, Marylebone-rd.

Forster, Edward, Salisbury-hall, Chapel-end, Walthamstow, Essex, Farmer. Pet Jan 2. London, Jan 23. Sol Adcock, 3 Copthall-bldgs, London.

French, Charles, Chiselhurst, Kent, Butcher. Pet Jan 3. London, Jan 23. Sol Letts, jun, 8 Bartlett's-bldgs, London.

Fry, Levi, Bournemouth, Grocer. Pet Jan 2. London, Jan 23. Sol Low, 65 Chancery-lane.

Gibson, Henry, 2 Rowe's-cottages, East Dulwich. Surrey, Dealer in Jewellery. Pet Jan 1. London, Jan 25. Sol Beard, 10 Basinghall-st.

Green, John, Birkby, Huddersfield, Joiner. Pet Dec 28. Huddersfield, Jan 30. Sol Drake, Huddersfield.

Green, Joseph, Acomb, Northumberland, Labourer. Pet Jan 1. Hexham, Jan 21. Sol Dodd, Hexham.

Green, William, 6 Conduit-st, Westbourne-ter. Hyde-park, Paddington, Auctioneer. Pet Jan 1 (in formâ pauperis). London, Jan 23. Sol Mirfin, 5, Staple-inn, London.

Guy, George, 35 Southgate-st, Bath, Baker and Confectioner. Pet Jan 2. Bath, Jan 21. Sol Wilton, Bath.

Hall, Edward, Lincoln, Butcher. Pet Dec 26. Leeds, Jan 22. Sol Brown, Lincoln.

Hall, James, 4 Cromwell-st, Speedwell-st, Oxford, Builder. Pet Jan 6. London, Jan 23. Sols Doyle, 2 Verulam-bldgs, Gray's-inn, and Thompson, Oxford.

Hallet, James, Crown-st, Finsbury, Middlesex, Coach Painter and Publican. Pet Jan 2 (in formâ pauperis). London, Jan 17.

Heath, William Henry, Camborne, Cornwall, Dealer in Hardware. Dec 14. Redruth, Jan 8.

Hewitson, William, Llandudno, Carnarvonshire, Seedsman. Pet Jan 2. Liverpool, Jan 18. Sols Evans, Son, & Sandys, Liverpool.

Hirst, William, 65 Lowerhead-row, Huddersfield, Dealer in Hay and Straw. Pet Dec 31. Huddersfield, Jan 30. Sol Drake, Huddersfield.

Hobson, Thomas, Copthall Farm, Waltham-abbey, Essex, and 2 James-st, Saint Peter-st, Islington, Middlesex, Cowkeeper and Dairyman. Pet Dec 30. London, Jan 23. Sol Clapham, 14 Liverpool-st, Bishopsgate.

Horrocks, Samuel, Boat House Tavern, Oldfield-rd, Salford, Licensed Victualler. Pet Jan 1. Manchester, Jan 20. Sol Swan.

House, John, 590, 591 and 592 Railway-arches, Blue Anchor-rd, Rotherhithe, Surrey, Tanner. Pet Dec 28. London, Jan 25. Sol Chipperfield, 3 Trinity-st, Southwark.

Hughes, Joseph, Duke-st, Manchester, Fustian Manufacturer. Pet Jan 2. Manchester, Jan 17. Sols Crowther & Farrington, Manchester.

Inman, George, Sheffield, Labourer. Pet Jan 3. Sheffield, Jan 22. Sol Mason, Sheffield.

Jones, David, Kenfig-hill, Glamorganshire, Draper. Pet Nov 22 (in formâ pauperis). Cardiff, Jan 14. Sol Wilcocks, Cardiff.

Jowett, Manassah, Bolton-rd, Bradford, Shopkeeper. Pet Jan 3. Bradford, Jan 21. Sol Harle, Bradford.

Lake, George, 25 Bloomsbury-st, Bedford-sq, Middlesex, Professor of Music. Pet Jan 2. London, Jan 1. Sol Blake, 41 Moorgate-st.

Lane, William, Woolfardisworthy, Devonshire. Pet Jan 4. Bideford, Jan 20. Sol Bencraft, Barnstaple.

Langman, William, Wolverhampton, Furniture Dealer. Pet Jan 2. Birmingham, Jan 24. Sol Smith, Birmingham.

Lawrence, William. Pet Jan 2. Lincoln, Jan 16. Sols Tweed & Hughes.

Lead, John Frederick, Wellington, Salop, Draper. Pet Jan 2. Birmingham, Jan 20. Sol Wright, Birmingham.

Lille, Alexander, 23 Devonshire-st, Islington, Middlesex, Dealer in Pictures, Dec 16. Nottingham, Feb 5.

Lucas, Thomas, 31 South-st, Worthing, Ironmonger. Pet Jan 3. London, Jan 17. Sols Chipperfield, Trinity-st, Southwark, and Goodman, Brighton.

Miller, John, Liverpool, Tea Merchant. Pet Dec 20. Liverpool, Jan 18. Sol Charles Pemberton.

Morgan, William, Poole, Tailor. Pet Jan 6. Poole, Jan 20. Sol Farr-Poole.
Moxon, Benjamin, Sheffield, Publican. Pet Jan 3. Sheffield, Jan 22. Sol Mason, Sheffield.
Oxenden, Henry Chudleigh, Baronet, 5 Esplanade, Dover, and formerly, of Folkestone, Kent. Pet Jan 6 (in formâ pauperis). London, Jan 25. Sol Sidney, Circus-pl, Finsbury.
Parker, Thomas, Branston, Lincolnshire, Cattle Dealer. Pet Dec 31 Sleaford, Jan 14. Sols Brown & Son, Lincoln.
Parsley, James Whiting, 2 Albion-rd, Clapham, Surrey, Clerk in Office of Committee of Privy Council for Trade. Pet Jan 3. London, Jan 21. Sols Sole, Turner, & Turner, 68 Aldermanbury.
Parsons, Richard Child, Theale, near Reading, Cattle Dealer. Pet Jan 3. London, Jan 25. Sol Peverly, 19 Coleman-st.
Phillips, Frederick George, Walton-on-Thames, Clerk at Phillips's Brewery. Pet Jan 6 (in formâ pauperis). London, Jan 22. Sol Holt, Quality-ct.
Riley, Benjamin, Blackburn, Bobbin Maker. Pet Jan 4. Manchester, Jan 24. Sol Boote, Manchester.
Rochfort, Rungheet Rajhpoot, 34 Peacock-st, Gravesend, Gent. Pet Dec 30. Gravesend, Jan 13. Sol Everill, Gravesend.
Rule, George, 1 Pickard-st, City-rd, Middlesex, Slater. Pet Jan 4. London, Jan 22. Sol Philp, Bucklersbury.
Smallwood, Josiah, William Edward-st, Birmingham, Iron Square Manufacturer. Pet Jan 2. Birmingham, Jan 24. Sols East and Parry, Birmingham.
Smith, Charles. 6 Frederick-st, Liverpool, Licensed Victualler. Pet Jan 2. Liverpool, Jan 20. Sol Husband, Liverpool.
Smith, Thomas, & William Smith, Coventry, Ribbon Manufacturers (J. T. & W. Smith). Pet Jan 2. Birmingham, Jan 20. Sol Smith, Birmingham.
Stevens, Edward, 74 Herbert-st, New North-rd, Middlesex, Railway Clerk. Pet Jan 3. London, Jan 21. Sols Howard, Halse, & Trustram, 66 Paternoster-row.
Surridge, Abraham, South Benfleet, Essex, Shopkeeper. Pet Jan 2. London, Jan 21. Sol Duffield, 80 Cornhill.
Sweet, Richard, 186 High Holborn, Middlesex, Carver and Gilder. Pet Jan 2. London, Jan 16. Sol Bartley, 4 Bartlett's-buildings, London.
Vickers, James, Howden, Durham, Joiner. Pet Dec 30. Wolsingham, Jan 18. Sol Dolphin, Wolsingham.
Walker, William, 19 Fuller-st, Bethnal-green-rd, Middlesex, Silk Dealer. Pet Jan 6 (in formâ pauperis). London, Jan 23. Sol Juckes, 10 Bridge-water-sq.
Waude, John, 14 Bebbington-st, Collyhurst-rd, Manchester, Mechanic. Pet Dec 31. Manchester, Jan 28. Sol Stiles, Manchester.
Welch, William, 254 High-st, Exeter, Boot and Shoe Maker. Pet Jan 4. Exeter, Jan 18. Sol Roberts, Exeter.
Wells, Matthew Barron, Newport, Monmouthshire, Provision Merchant. Pet Jan 2. Bristol, Jan 21. Sol Blakey, Newport.
Wilkinson, Henry, Sheffield, White Metal Manufacturer. Pet Jan 3. Sheffield, Jan 22. Sol Mason, Sheffield.
Winton, William Henry, Walford, Herefordshire, Hay Dealer. Pet Jan 4. Birmingham, Jan 24. Sols Hodgson & Allen, Birmingham.
Wolstenholme, Alfred, 94 Arundel-st, Sheffield, Schoolmaster and Druggist. Pet Jan 6. Sheffield, Jan 22. Sol Broadbent, Sheffield.
Wrightson, Henry Alfred, Scarborough, Painter and Paper Hanger. Pet. Dec 28. Leeds, Jan 20. Sols Hesp & Boody, Scarborough, and Bond & Barwick, Leeds.

BANKRUPTCIES ANNULLED.

FRIDAY, Jan. 3, 1862.

Fentem, George, 37 St. Mary's-st, Southampton, Grocer and Provision Merchant. Dec 27.

TUESDAY, Jan. 7, 1862.

Smith, William Thompson, & Samuel Cannon, Liverpool, Factors and Agents. Dec 20.
Brand, Samuel, 50 Thomas-st, Liverpool, Licensed Victualler. Jan 3.
Dickinson, Isaac, Benington, near Stevenage, Hertfordshire, Baker. Jan 2.